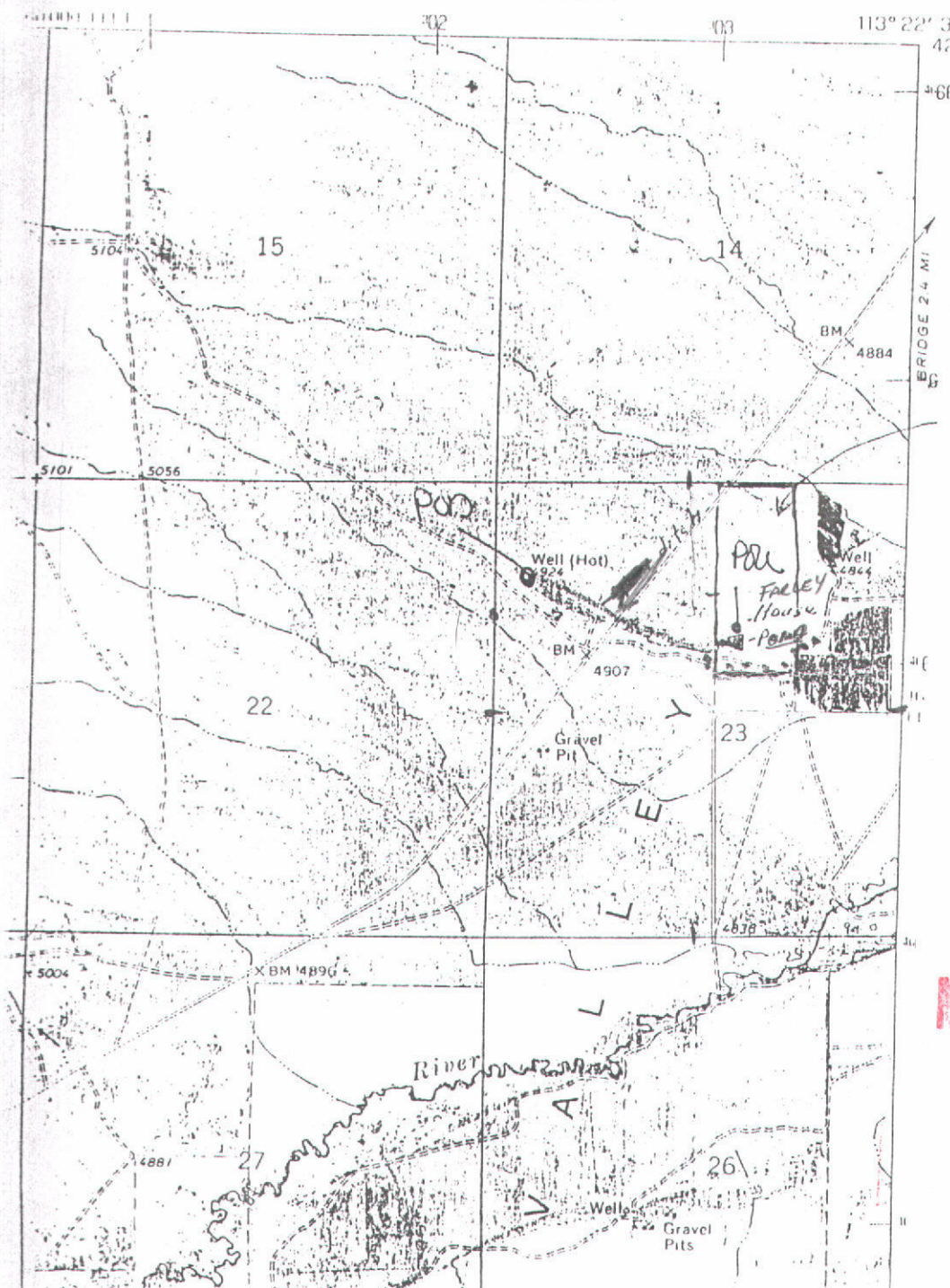


DD81

S 23²⁶ T15S R10E²³

CHOKECHERRY CANYON ORTHOPHOTOQUAD
IDAHO



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MAY 04 1992

Department of Water Resources
Southern Region Office

MICROFILMED

APR 13 1993

43-07318

92-195

NOTICE OF APPLICATION FOR
WATER RIGHT

The Following application(s) have been filed
to appropriate the public waters of the State of
Idaho:

43-07318

FARLEY, RANDALL JAY

FARLEY, LINDA DIANE

HC 72

MALTA, ID 83342

Source: GROUNDWATER

Diversification Pt: SWNWNW Sec 23 T 15S R 26E

in CASSIA County.

Use: HEATING (.220 CFS)

DOMESTIC (.100 CFS)

RECREATION (.220 CFS)

Total Diversification: (.220 CFS)

Date Filed: 5/4/1992

In: CASSIA County

T15S R26E S23 SWNE

The permit(s) will be subject to all prior water
rights. Pretests must be filed with the Direc-
tor, dept. of Water Resources, Southern Region,
222 Shoshone Street East, Twin Falls, ID
83301, on or before JULY 6, 1992.

R. KEITH HIGGINSON
Director

Published in the South Idaho Press June 19
and 26, 1992.

SOUTH IDAHO PRESS
BURLEY, IDAHO

AFFIDAVIT OF PUBLICATION

County of Cassia, }
STATE OF IDAHO } ss.

RECEIVED

JUL 02 1992

Department of Water Resources
Southern Region Office

Monique Jones being first
duly sworn, deposes and says that she
is the Clerk of the South
Idaho Press, a daily newspaper published
at Burley, Idaho, in the county aforesaid
and that the paper is of general circulation
therein. Deponent further states that the
printed notice attached hereto was duly
published according to law in the regular
editions of The South Idaho Press for two
consecutive weeks, commencing with the
issue dated June 19 19 92, and
ending with the issue dated June 26,
19 92. Monique Jones

STATE OF IDAHO
COUNTY OF CASSIA }

On this 1 day of July in the year of 1992, before me,
a Notary Public, personally appeared _____,
known or identified to me to be the person whose name subscribed to the
within instrument, and being by me first duly sworn, declared that the
statements therein are true, and acknowledged to me that he executed
the same.

Kelly Solomon
Notary Public for IdahoResiding at Burley, IdahoMy commission expires: May 23, 1997

Cost of Publication: 29.14
Notary Fee: .50
Total Cost: 29.64

OK
MB
7-8-92

MICROFILMED

APR 13 1993

PHOTOS BY 5-1-92
4-27-92



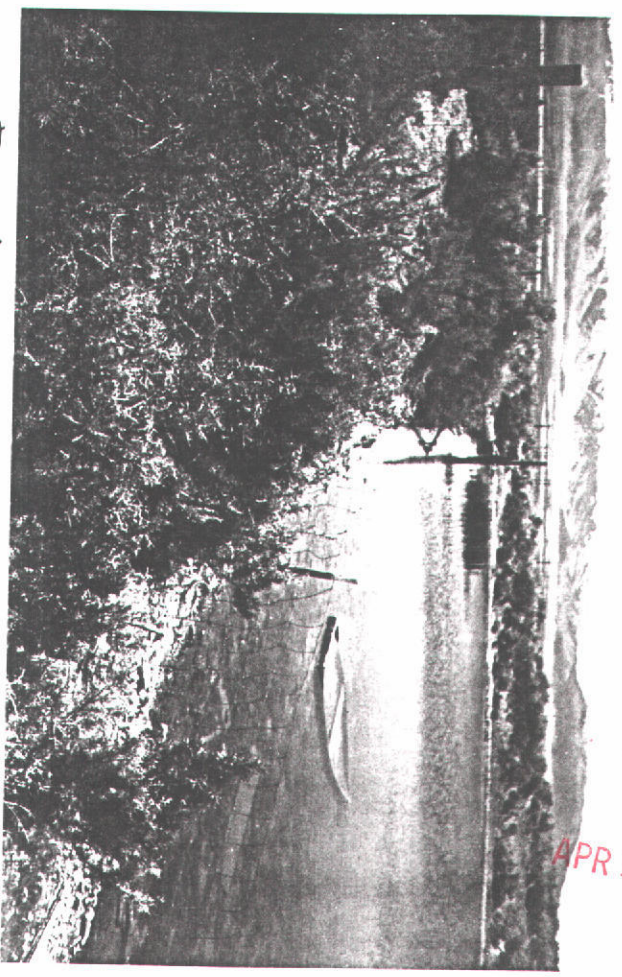
SMALL CLEARING ONE
USED FOR IRRIGATION.

← DAM BELOW
← LOOKING DOWN FACE



IRRIGATION DITCH & DRAIN CULVERT
NO LONGER IN USE > 5 YRS

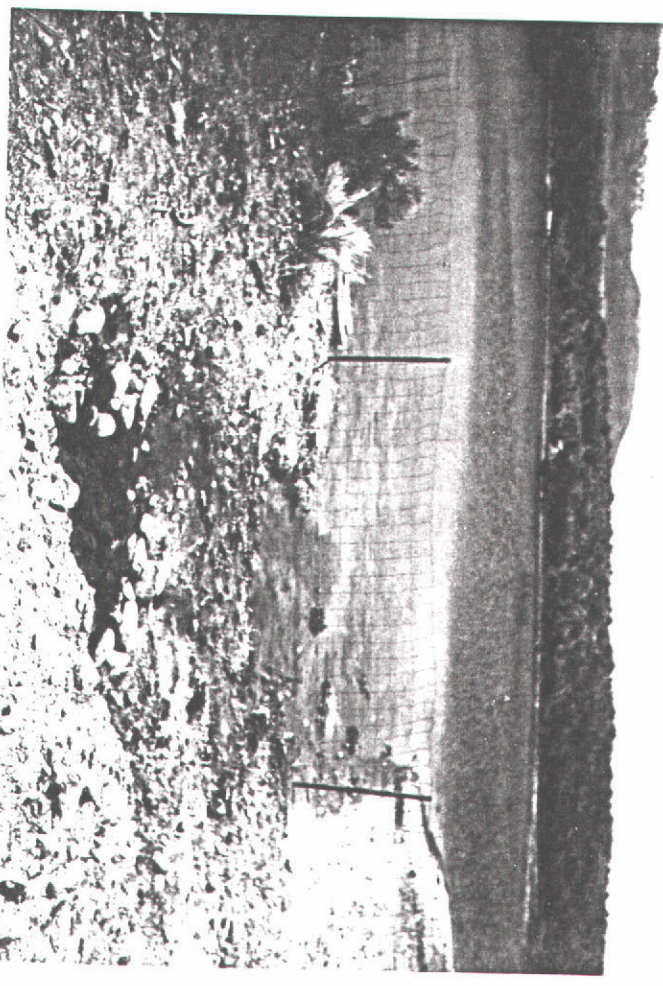
FAKLEY 443-40984



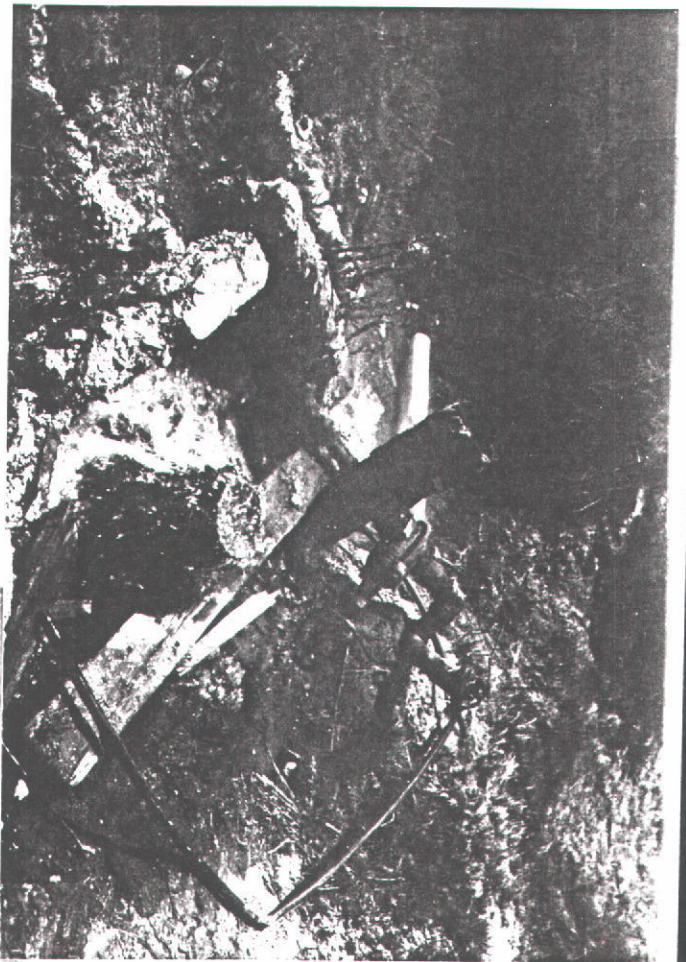
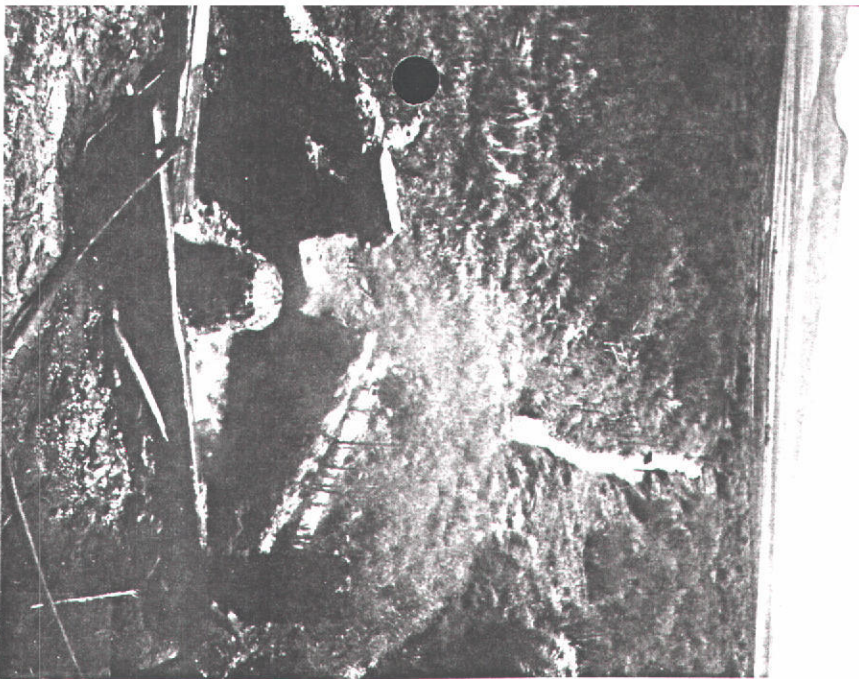
DAM ABOVE

NOTE: RECREATION
USES FROM
PAST.

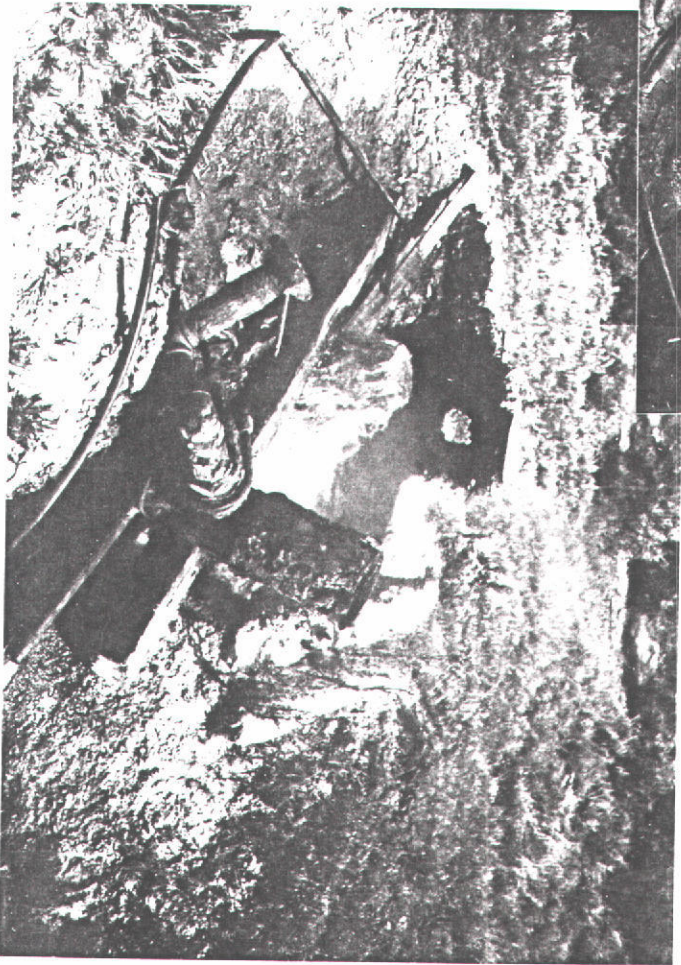
APR 13 1993



STOCK WATER PIPELINE FROM THE



HOT WATER WELL
AT BRIDGE SPENDS



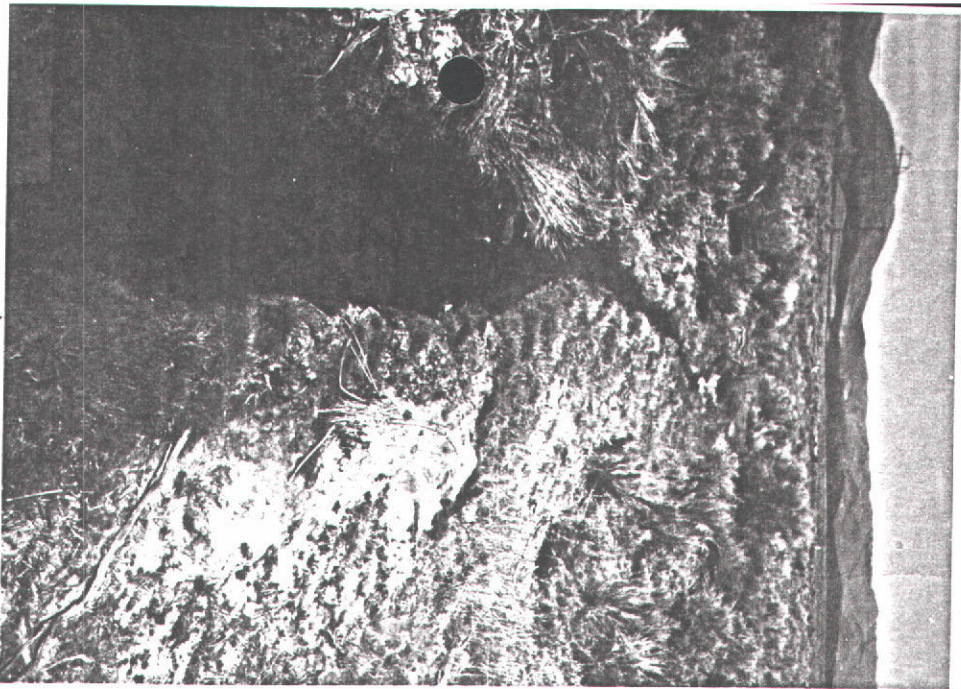
FARLEY

A43-4098A

APR 13 1953

SW NW NW
Sec. 23
15S. R26E.



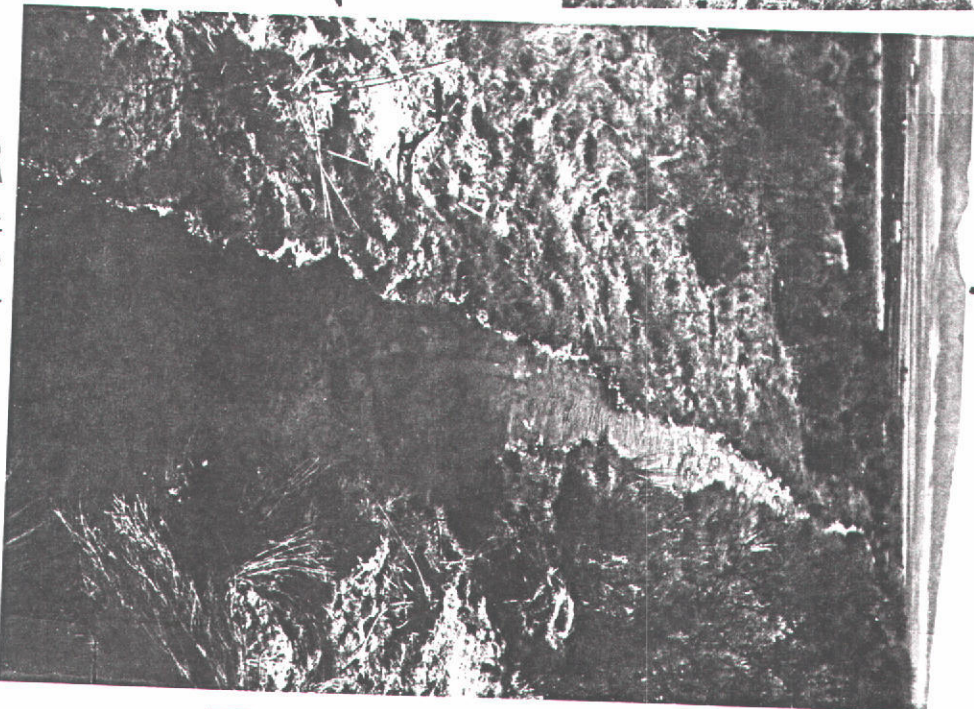


N-West View
upstream of
Ditch

FARLEY'S DOMESTIC LINE
BEGINS HERE.

Well site
in Background.

House & Pond
in Background.

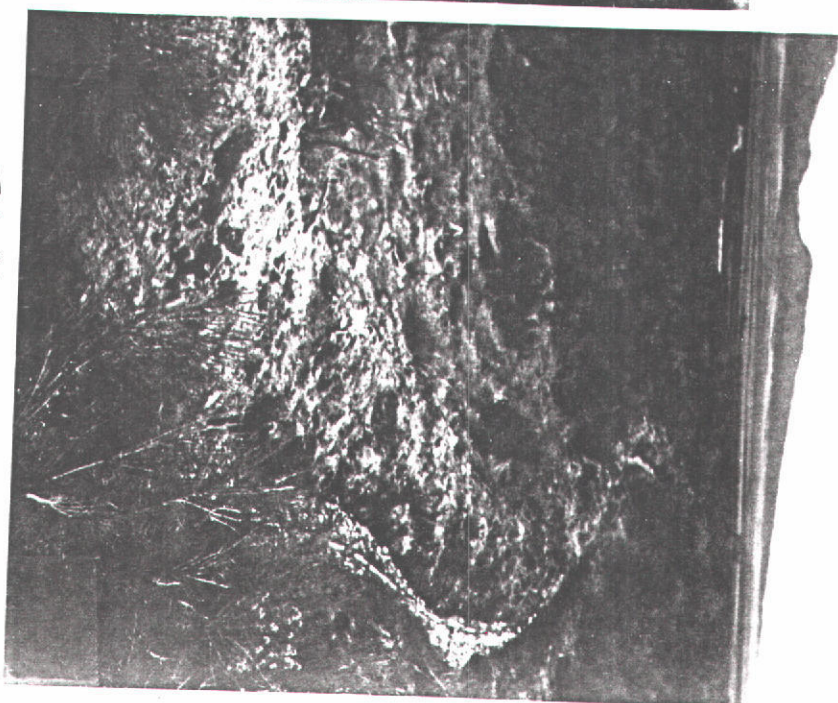


SE View
Downstream of Ditch

FARLEY

A43-4098A

APR 13 1993



TYPICAL DITCH
View with Pipe
in Ditch Bottom.

FARLEY
A43-40984



View West
Pipeline to House
& Ditch To Pond.

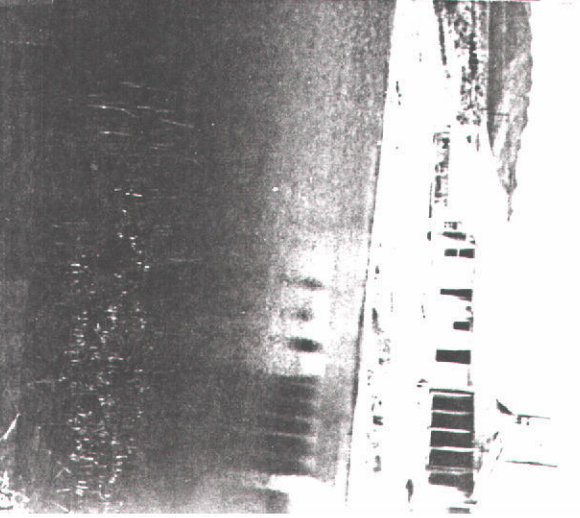
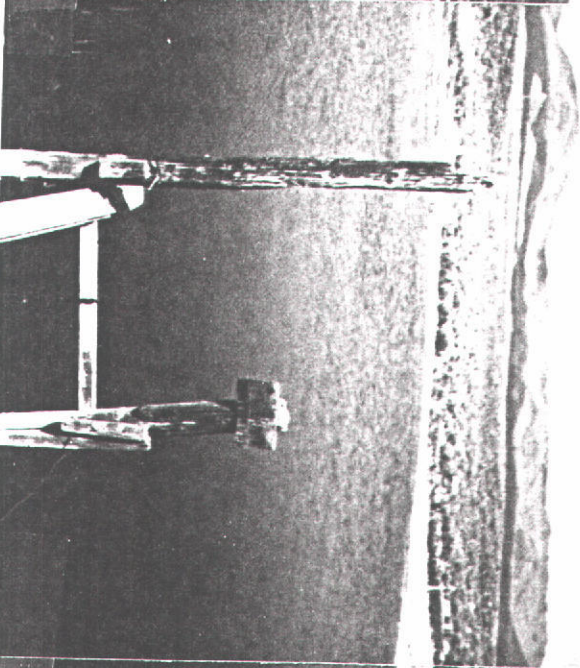
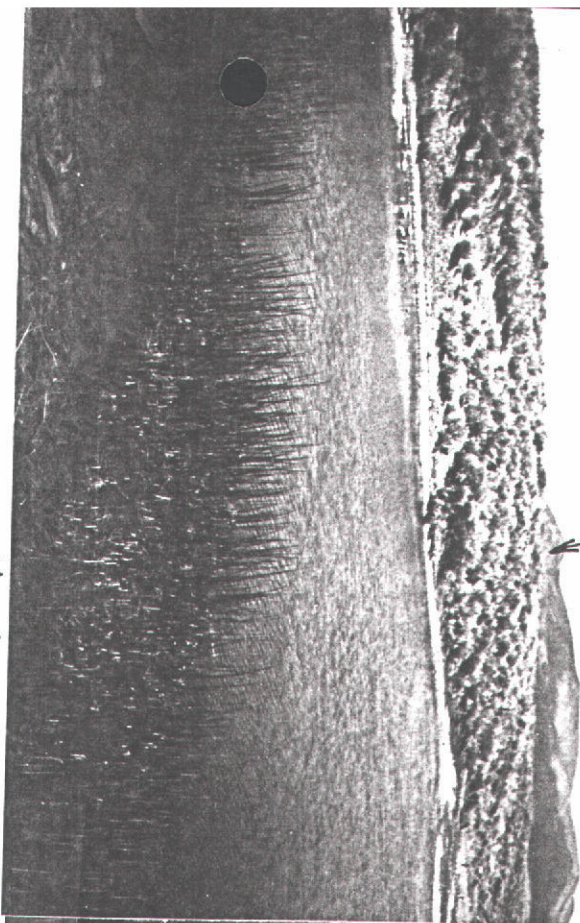


View SE
DARRINGTON'S View
Diversion From the Ditch.
Developed in April 1992.

APR 13 1993

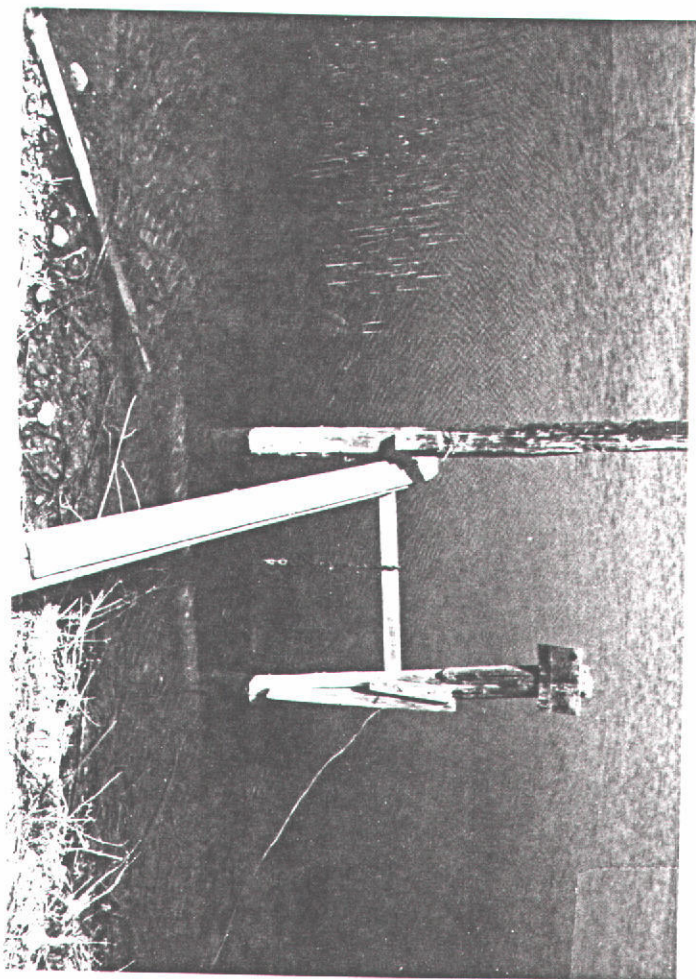
PITCH TO POND

PHOTO 443-4098A



View WEST

POND SITE
AS VIEWED FROM DAM.
T155. R26E.
sec. 23
SW NE



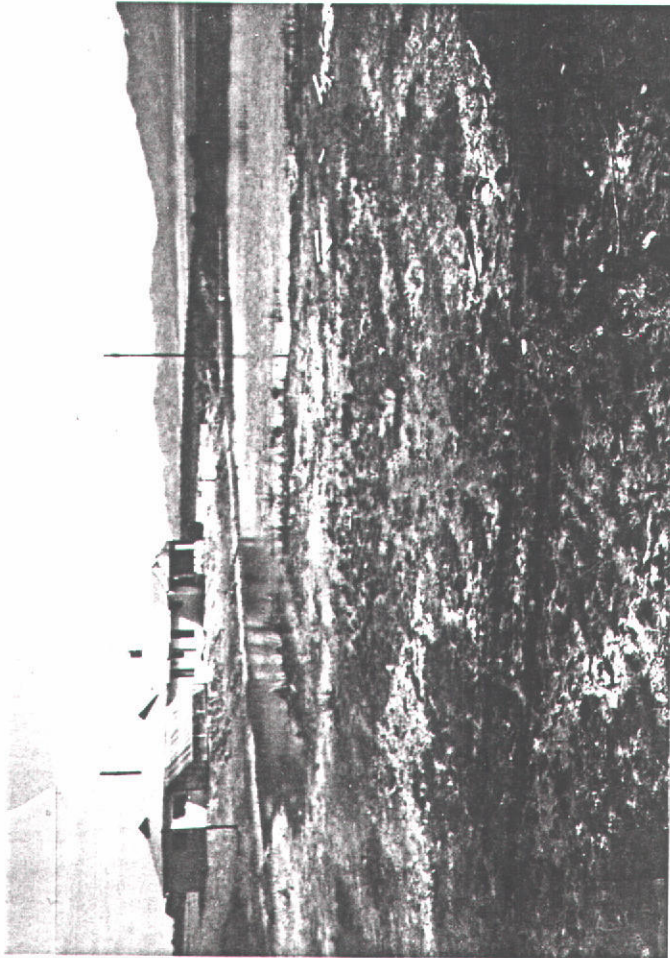
APR 13 1993

PHOTOS BY SEC
4-27-92

OLD CULVERT USED TO
DRAIN POND + DELIVER
COOLED WATER TO
IRRIGATION DITCH BELOW
THE DAM.
— NO LONGER IN USE.

FARLEY
A43-4098A

RETURN AFTER
WATER FLOW IS THE
NEARLY 3000 GPM
HERE
0.02202



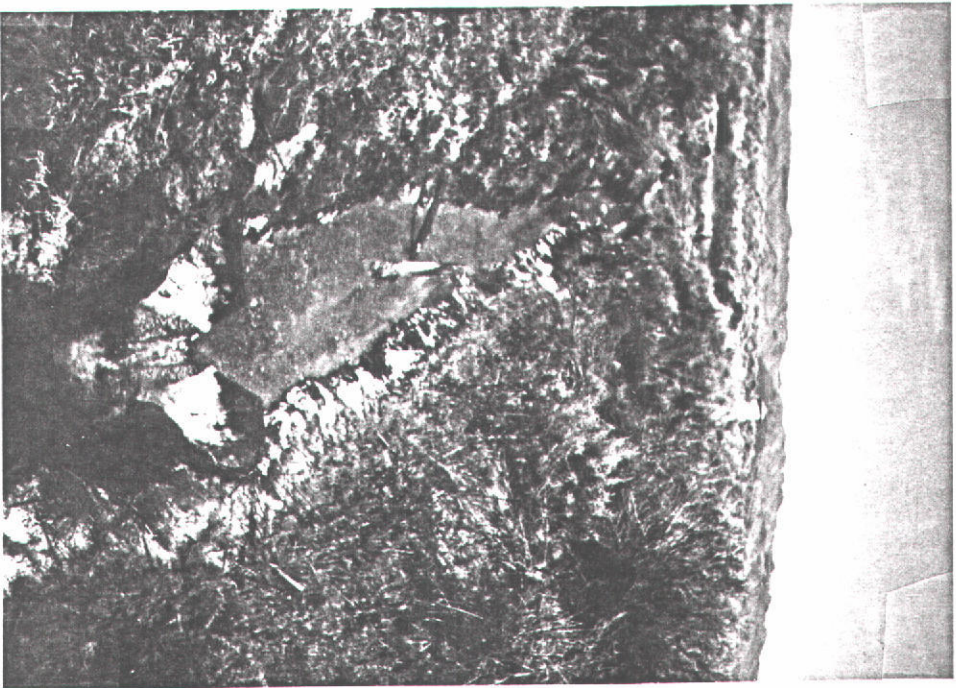
HOUSE IS ON
NORTH SIDE
OF POND.

APR 13 1993

SOUTH-WEST EDGE
OF POND

NOTE: LOWERED
WATER LINE
DUE TO ADDITIONAL
DIVERSIONS AWAY FROM
THE POND.

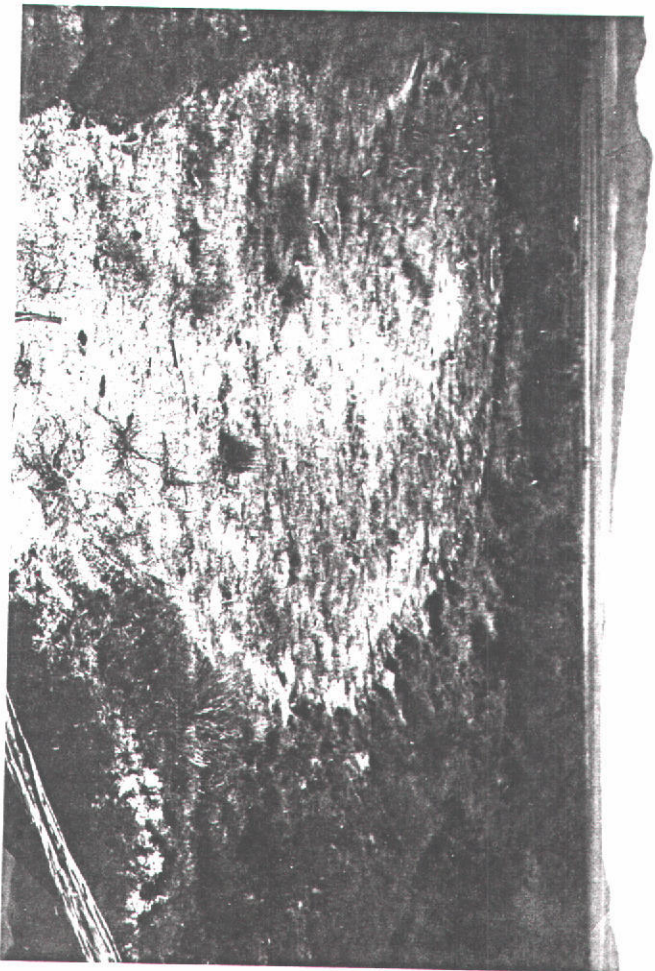
DATE OF SURVEY



V-notch weir

NEEDS IMPROVEMENTS
TO BE ACCURATE.

PHOTOS BY: SEC 4-27-92



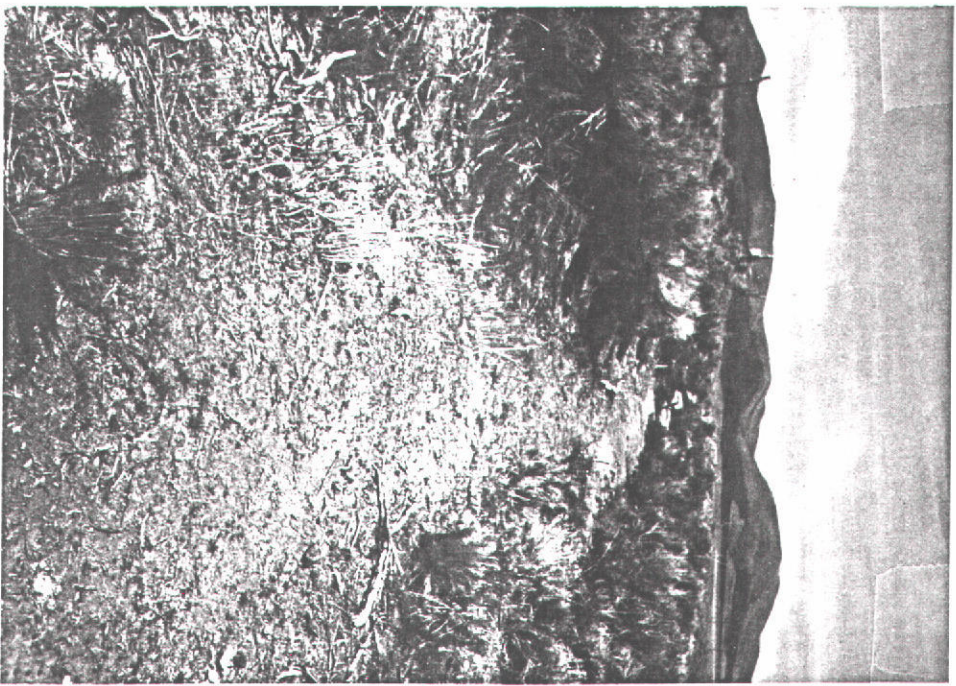
DIVERSION TO HOG SCARDING
POND. HASN'T BEEN USED RECENTLY.

FARLEY

A43-4098A

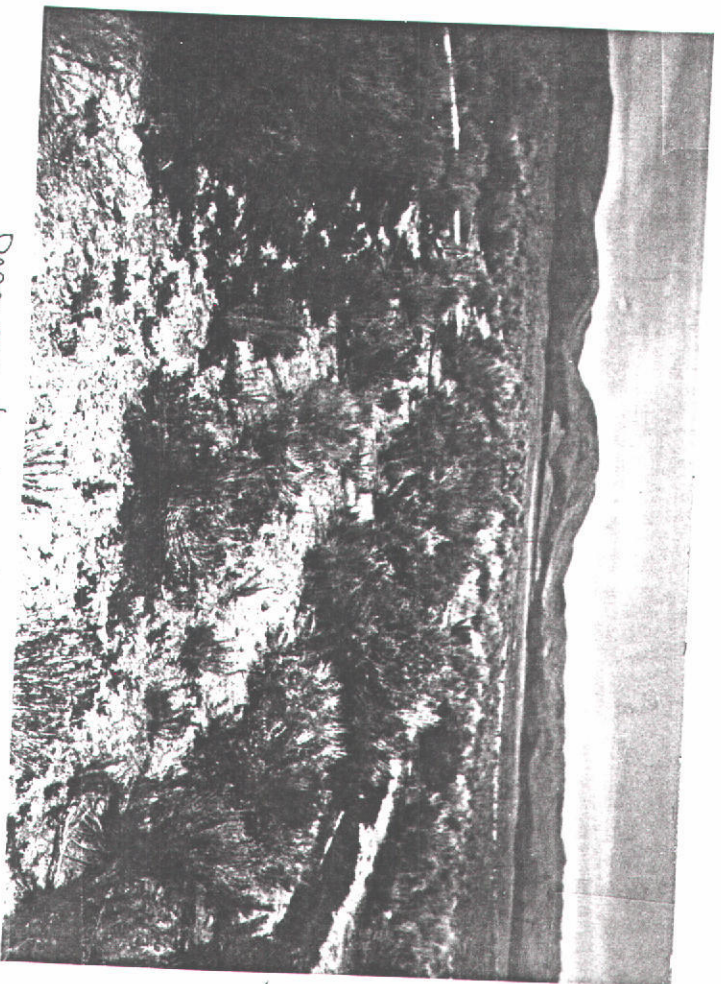
APR 13 1993

↑
PITCH
FLSH



POSSIBLE OLD DITCH
SITE BUT WATER WOULD
STILL END UP IN THE POND.

NO DITCHES FOUND TO BYPASS POND
FOR IRRIGATION USES.



DARLINGTON'S NEW DIVERSION
CROSSES EXISTING ROAD BED.
NO EVIDENCE OF PREVIOUS DITCHES
ON THIS SITE FOR SAME PURPOSE.

FARLEY 443-4098A

↓
DITCH
Flow
To Pond

APR 13 1993

Photos by SCC

4-27-92

FARLEY A43-4098A

IRICAL
Flow
DITCH



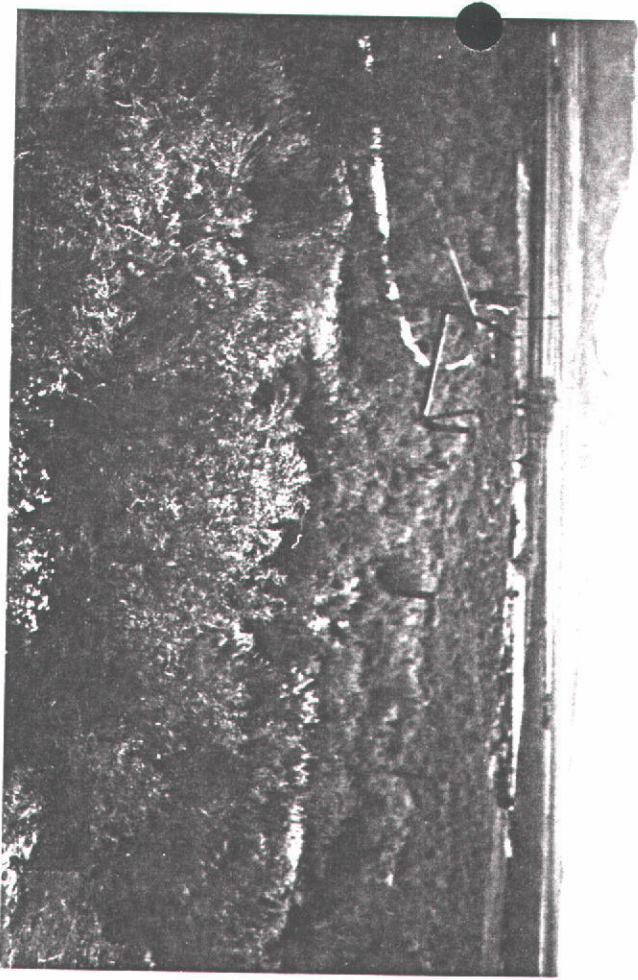
Flow

THIS DIVERSION
WAS DEVELOPED
IN APRIL 1992.
PIPELINE DOES
NOT REPLACE
ANY PREVIOUS
DITCH SITE.



APR 13 1993

PIPELINE TO POU.



PIPELINE CROSSES
EXISTING ROADWAY.
BLM GROUNDS UP TO THE
FENCE IN THE BACKGROUND.

PHOTOS BY SCOTT L...

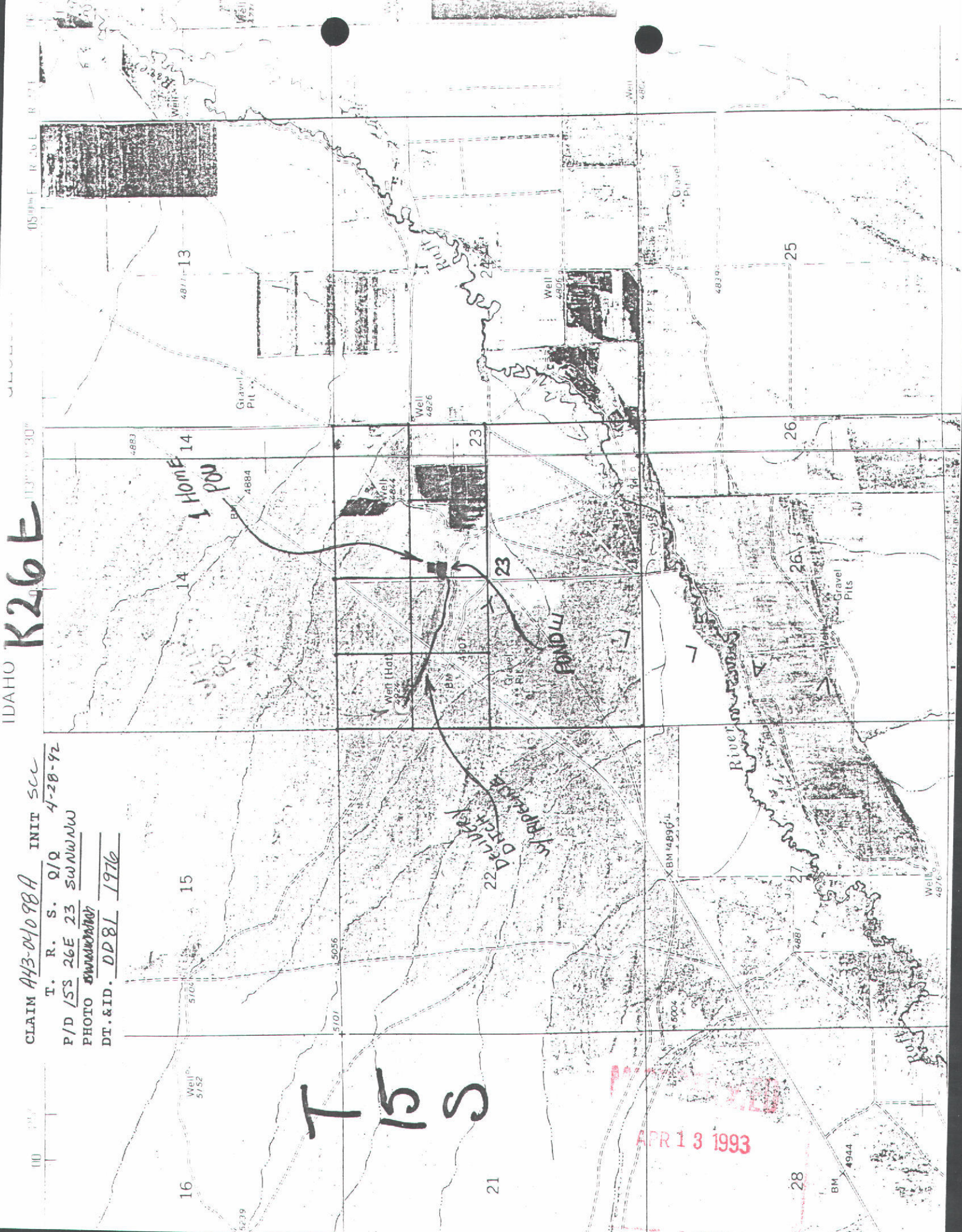
IDAHO

K26E

CLAIM A43-04098A INIT SCC
T. R. S. Q/Q 4-28-92
P/D /SS 26E 23 SWNW
PHOTO ~~SWNW~~
DT. & ID. DD81 1976

T 15 S

APR 13 1993



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

FEB 15 2002

PROOF OF BENEFICIAL USE

The Idaho Department of Water Resources considers this form a statement that the permit holder(s) has/have completed all development that will occur under this permit and that water has been applied according to the provisions of the permit for the beneficial use(s) described below. This form must be accompanied by a license examination fee, when necessary, or be accompanied by a completed field examination report prepared by a certified water right examiner.

1. Permit No. 43-7318 Telephone No. (208) 845-2577
2. Name of Permit Holder(s): Randall Jay Farley / Linda Diane Farley
3. Mailing Address: 2931 Narrows Road
City Malta State ID Zip 83342
4. Source of Water: Groundwater If GROUNDWATER (well), Date Drilled: mo. 1 / yr. 1935
Well Driller: _____ Drilling Permit Number: _____
5. Use(s) (as authorized by the water right permit):
Domestic (No. of households): 1 Stockwater (No. and type of stock): _____
Irrigation (No. of acres): _____ Other: _____
6. Total rate of diversion and/or volume for which proof is submitted: 0.050 cfs OR _____ acre-feet
7. Measuring Device Requirement: (refer to the approval conditions on your permit and respond accordingly)
(This question is **not optional**. Please check either yes or no. Proofs returned not checked accordingly, will be considered incomplete)
Measuring Device: Is a measuring device required? Yes _____ or No _____
Has the measuring device been installed? Yes _____ or No _____
8. Fee Enclosed: \$ _____ (See Fee Schedule on back of the instructions for filing proof of beneficial use)
9. Person to contact to accompany the Department representative during field examination of the water system.
Name: Randall Farley Telephone Number: Work (208) 824-5519
(208) 845-2577
Address: 2931 Narrows Road Malta ID 83342
10. The information given on this form is my true statement of the extent to which the above numbered permit has been developed and water has been diverted. I agree to relinquish any undeveloped portion of the permit to the State of Idaho.

Signature of permit holder:

[Signature: Randall J. Farley]
(include your title, if on behalf of company or organization)

Date: Feb. 11-02

MICROFILMED

MAY 15 2002

FEB 19 1998

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

FEB 24 1998

REQUEST FOR EXTENSION OF TIME
TO PROVIDE ADDITIONAL TIME IN WHICH TO SUBMIT PROOF OF
BENEFICIAL USE FOR A WATER RIGHT PERMIT

Department of Water Resources

The Idaho Department of Water Resources will consider this form as a request that the permit holder(s) be granted an additional period of time under the provisions of Section 42-204, Idaho Code in which to complete development of a water right.

Permit No. 43-07318

Name(s) of Permit Holder: Randall J. & Linda D. Farley

Mailing Address: 2931 Narrows Rd. Malta, ID 83342

Date Proof is Due: 4-1-1998 Telephone No. 645-2577

Describe what work has been completed toward the development of this water right:

(This must be filled out! If no work has been completed, show "none".)

The original 1" plastic pipe from the well has been replaced with a 2" pipeline to the home. A buried sprinkler system was installed to water the lawn. The old garden site (about 1/4 acre) has been converted to a pasture. Trout have been planted in the pond. Costing \$ 12,000.

The permit holder(s) has been unable to complete the remainder of the work for the following reasons:

Litigation over ownership of the well water has hampered our ability to fully develop this permit. Evidence has been submitted to the SRAA Court, but no ruling has been issued.

Permit holder(s) request an extension to 4-1, ~~19~~ 2003.

FEE: \$50.00

Randall Farley
(Signature)*

*If other than permit holder, Power of Attorney must be supplied.

ACTION OF THE DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above request for extension of time be APPROVED and the time within which to submit proof of beneficial use is extended to April 1, 2002.

Signed this 25th day of June, 19 98

J. Glen Saylor
Chief, Water Allocation Bureau

RECEIVED

MAR 27 1995

Department of Water Resources

For Office Use Only
\$50 Fee Received by RT
Date 3-27-95
Receipt No. C032366

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

REQUEST FOR EXTENSION OF TIME
TO PROVIDE ADDITIONAL TIME IN WHICH TO SUBMIT PROOF OF
BENEFICIAL USE FOR A WATER RIGHT PERMIT

The Idaho Department of Water Resources will consider this form as a request that the permit holder(s) be granted an additional period of time under the provisions of Section 42-204, Idaho Code in which to complete development of a water right.

Permit No. 43-07318

Name(s) of Permit Holder: RANDALL JAY FARLEY, LINDA DIANE FARLEY

Mailing Address: HC 72 MALTA ID, 83342

Date Proof is Due: APRIL 1, 1995 Telephone No. 208-645-2577

Describe what work has been completed toward the development of this water right:
(This must be filled out! If no work has been completed, show "none".)

1/2 MILE OF HOT WATER PIPING INSTALLED BETWEEN HOT WELL & HOME
HOT WATER PIPING & BASEBOARD HEATERS INSTALLED THRU-OUT HOME
SPRINKLER SYSTEM INSTALLED IN YARD, IRRIGATION PIPES TO GARDEN & PASTURE AREA
SWITCHING SYSTEM & PUMPS FOR HOT & COOLED WATER SYS. Costing \$ (Approx.) \$11,650.00

The permit holder(s) has been unable to complete the remainder of the work for the following reasons:

FOR MUCH OF THE WORK WE CAN DO ONLY IN WARM
WEATHER & SHOULD HAVE ASKED FOR MORE TIME TO COMPLETE
AT THE ONSET. ALSO MUCH OF OUR TIME HAS BEEN SPENT DEFENDING FRIVOLOUS LAWSUIT.

Permit holder(s) request an extension to OCTOBER 1, 19 95.

FEE: \$50.00

Linda Diane Farley
(Signature)*

*If other than permit holder, Power of Attorney must be supplied.

ACTION OF THE DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above request for extension of time be APPROVED and the time within which to submit proof of beneficial use is extended to April 1, 1998.

Signed this 3rd day of April, 19 95

J. Glen Saxton
Chief, Water Allocation Bureau

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CASSIA

In the Matter of the Application for Permit
No. 43-07318 in the Name of Randall Jay
Farley and Linda Diane Farley.

) Case No. SP 93-00103

) ORDER OF DISMISSAL

IVAN DARRINGTON,

)
)
) Protestant - Appellant,
)
)

vs.

RANDALL JAY FARLEY and LINDA
DIANE FARLEY,

)
)
) Applicants - Respondents,
)
)

and

IDAHO DEPARTMENT OF WATER
RESOURCES,

)
)
) Respondents.
)
)

William A. Parsons, Parsons, Smith Stone & Fletcher, for Ivan Darrington

Phillip J. Rassier, Deputy Attorney General, for Idaho Department of Water
Resources

Randall and Linda Farley, Pro Se

On September 29, 1994, this court entered an *Order Accepting Stipulation to Dismiss
Appeal.*

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CASSIA**

In the Matter of the Application for Permit
No. 43-07318 in the Name of Randall Jay
Farley and Linda Diane Farley.

Case No. SP 93-00103

**ORDER ACCEPTING
STIPULATION TO DISMISS
APPEAL**

IVAN DARRINGTON,

Protestant - Appellant,

vs.

RANDALL JAY FARLEY and LINDA
DIANE FARLEY,

Applicants - Respondents,

and

IDAHO DEPARTMENT OF WATER
RESOURCES,

Respondents.

William A. Parsons, Parsons, Smith Stone & Fletcher, for Ivan Darrington

Phillip J. Rassier, Deputy Attorney General, for Idaho Department of Water
Resources

Randall and Linda Farley, Pro Se

This is an appeal from a decision of the Idaho Department of Water Resources (IDWR)
to issue a water right permit to Randall and Linda Farley (Farleys). (Record on Appeal at 85.)

**ORDER ACCEPTING STIPULATION
TO DISMISS APPEAL**
9/29/94

meaning, that is clearly appropriate and clearly what the department thought and intended and wished in its decision." (Tr. p. 7 ll. 8-21.) (Emphasis added.)

By this statement, Rassier stipulates that IDWR is estopped from affirmatively defending, in any lawsuit, that the doctrines of *res judicata* or collateral estoppel apply as to the interpretation, implementation or construction of the Memorandum Agreement.

Farleys did not object to the court's acceptance of the oral stipulation to dismiss the immediate appeal. (Tr. p. 8 ll. 21-24.)

The court has found no legal authority for the proposition that parties can stipulate and bind a court as to what is or is not *res judicata* or collateral estoppel, nor have the parties provided legal authority for such a proposition.

What is operative as *res judicata* (claim preclusion) or collateral estoppel (issue preclusion) is a matter of application of law by a court.

This court agrees with the parties that legal argument relative to the construction or implementation of the terms of the Memorandum Agreement will not be barred by the doctrines of *res judicata* or collateral estoppel in subsequent lawsuits, if any, among parties to this administrative appeal. The following reasoning is illustrative of this court's conclusion.

Recently, the Court has reaffirmed the basic statement of the doctrine of *res judicata* (claim preclusion) that has guided our courts for seventy years:

We think the correct rule to be that in an action between the same parties upon the same claim or demand, the former adjudication concludes parties and privies not only as to every matter offered and received to sustain or defeat the claim but also as to every matter which might and should have been litigated in the first suit.

Joyce v. Murphy Land & Irrigation Co., 35 Idaho 549, 553, 208 P. 241, 242-43 (1922) (quoted with approval in *Kawai Farms, Inc. v. Longstreet*, 121 Idaho 610, 614, 826 P.2d 1322, 1326 (1992) and *Diamond v. Farmers Ins.*, 119 Idaho 146, 148, 804 P.2d 319, 321 (1990)).

In affirming a summary judgment in *Diamond*, the Court traced the evolution of *res judicata* (claim preclusion) in this state since *Joyce*, and concluded:

We approve the Court of Appeals holding in *Aldape v. Akins*, 105 Idaho 254, 668 P.2d 130 (Ct. App. 1983) that a valid and final judgment rendered in an action extinguishes all claims arising out

IT IS ORDERED that with the above-stated conditions, the oral stipulation to dismiss Cassia County Case No. Sp-93-00103 is accepted.

An order of Dismissal of Cassia County Case No. SP-93-00103 shall issue separately.

DATED September 29, 1994.


DANIEL C. HURLBUTT, JR.
District Judge

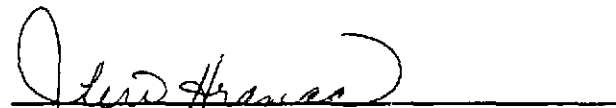
CERTIFICATE OF MAILING

I certify that a true and correct copy of the **ORDER ACCEPTING STIPULATION TO DISMISS APPEAL** was mailed on September 29, 1994, with sufficient first-class postage to:

William A. Parsons
Parsons, Smith, Stone & Fletcher
P.O. Box 910
Burley, ID 83318

Phillip J. Rassier
Deputy Attorney General
Department of Water Resources
Statehouse
Boise, ID 83720-9000

Randall & Linda Farley
HC 72
Malta, ID 83342


Deputy Clerk

State of Idaho
Department of Water Resources

Permit To Appropriate Water

NO. 43-07318

Proposed Priority: May 5, 1992 Maximum Diversion Rate: 0.08 CFS

This is to certify, that RANDALL JAY FARLEY
LINDA DIANE FARLEY
HC 72
MALTA ID 83342

has applied for a permit to appropriate water from: GROUNDWATER
and a permit is APPROVED for development of water as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
HEATING	09/01 to 06/01	0.04 CFS
DOMESTIC	01/01 to 12/31	0.04 CFS
RECREATION	01/01 to 12/31	0.04 CFS
	Totals	0.08 CFS

LOCATION OF POINT(S) OF DIVERSION: NWNW , Sec. 23, Township 15S, Range 26E
CASSIA County

PLACE OF USE: HEATING
TWN RGE SEC

15S 26E 23 SWNE

PLACE OF USE: DOMESTIC, same as HEATING use

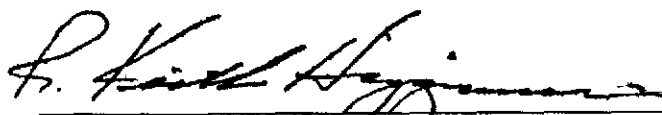
PLACE OF USE: RECREATION, same as HEATING use

CONDITIONS/REMARKS:

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before April 1, 1995.
2. See Adopted Memorandum Decision and Order for conditions of approval.
3. Heating use is for 1 home and 1 pool.
4. Domestic use is for 1 home.
5. Recreational use is for pool.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code.
Witness the signature of the Director, affixed at Boise, this

26th day of February, 1993.


R. Keith Higginson, Director

APR 13 1993

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR	)	FINAL ORDER ADOPTING
PERMIT NO. 43-07318	)	PROPOSED MEMORANDUM
IN THE NAME OF RANDALL JAY AND	)	DECISION AND ORDER
LINDA DIANE FARLEY	)	

WHEREAS, R. Keith Higginson, Director of the Department of Water Resources, sent a copy of the Proposed Memorandum Decision and Order addressing the above captioned matter to the parties of record on February 8, 1993, pursuant to Section 67-5211, Idaho Code; and,

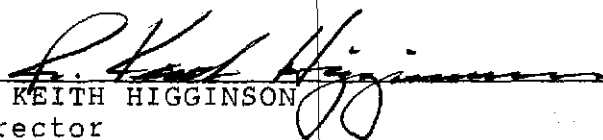
WHEREAS, more than fifteen days have passed since the service of the Proposed Memorandum Decision and Order; and,

WHEREAS, no exception to that Proposed Memorandum Decision and Order has been received;

IT IS, THEREFORE, HEREBY ORDERED that said Proposed Memorandum Decision and Order be adopted and issued as the Final Decision and Order, and Application for Permit No. 43-07318 is APPROVED.

IT IS FURTHER ORDERED that proof of construction of works and application of water to beneficial use shall be submitted on or before April 1, 1995.

Dated this 26TH day of FEBRUARY, 1993.



R. KEITH HIGGINSON
Director

APR 13 1993

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 2nd day of March, 1993, I mailed a true and correct copy of the foregoing Final Order Adopting the Proposed Memorandum Decision, postage prepaid, to the following:

Ivan Darrington

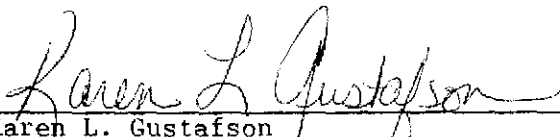
Box 136
Almo, ID 83312

Randall/Linda Farley

HC 72
Malta, ID 83342

Roger D. Ling

PO Box 396
Rupert, ID 83350



Karen L. Gustafson
Secretary/Records Manager

APR 13 1993

BEFORE THE DIRECTOR OF THE DEPARTMENT
OF WATER RESOURCES OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)	ORDER ISSUING
PERMIT NO. 43-07318 IN THE NAME OF)	PROPOSED MEMORANDUM
RANDALL JAY FARLEY AND LINDA DIANE)	DECISION
FARLEY	

R. Keith Higginson, Director of the Department of Water Resources, Having reviewed the attached proposed decision prepared by this appointee, L. Glen Saxton, who conducted the hearing or who has read the record in this case, hereby approves the same as a proposed decision pursuant to Idaho Code, Section 67-5211.

Each party to these proceedings who appeared at the hearing is given the opportunity, pursuant to Idaho Code, Section 42-1701A and 67-5211, to file exceptions to the proposed decision and to present briefs and oral arguments. If no timely and proper exceptions are received, an order by the Director will be entered adopting the proposed decision as his final decision.

I.
EXCEPTIONS

A. To be considered by the Director, exceptions must:

1. be received by the Director on or before the 15th day following the day of service of this Order and the proposed decision,
2. specifically identify the portions of the proposed decision to which exceptions are made and specifically state the grounds for those exceptions, and
3. be sent to each of the parties who appeared or their attorneys.

II.
BRIEFS

A. Any briefs in support of exceptions to the proposed decision shall be filed with the Director at the same time that party's exceptions are filed with the Director.

B. All response briefs to the exceptions must be filed with the Director within 15 days after the exceptions were served upon the responding party.

APR 13 1993

APR 13 1993

Director

R. KEITH HIGGINSON

Dated this 8th day of February, 19 93.

Following the submission of all exceptions, briefs and oral arguments, if they are heard, the Director shall issue a final decision adopting, modifying or rejecting and replacing the proposed decision. Copies of the decision and order shall be served on all parties.

FINAL DECISION

V.

All exceptions, briefs, requests for oral argument and other matters filed with the Director in connection with the proposed decision shall be served on all other parties to these proceedings in accordance with Rule 7.2.

CERTIFICATE OF SERVICE

IV.

C. Oral arguments before the Director on exceptions to the proposed decision shall be heard at the discretion of the Director, pursuant to Idaho Code, Section 42-1701A. If oral arguments are to be heard, the Director will, within a reasonable time, notify each party of the place, date and hour the oral arguments will take place and of the period of time allocated for the arguments of this case. Unless the Director orders otherwise, all oral arguments shall be heard in Boise, Idaho.

B. If oral arguments have been properly requested by a party filing exceptions, any other party, upon reasonable notice to the Director, shall have the right to present oral argument in response to the exceptions filed.

A. No oral arguments before the Director on the proposed decision will be held unless specifically requested by a party filing exceptions to the proposed decision and unless that request is filed with the Director concurrently with the filing of that party's exception.

III.

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO**

IN THE MATTER OF APPLICATION)
FOR PERMIT NO. 43-07318 IN THE)
NAME OF RANDALL JAY FARLEY AND)
LINDA DIANE FARLEY)
_____)

**PROPOSED MEMORANDUM
DECISION AND ORDER**

This matter having come before the Idaho Department of Water Resources (department) in the form of a protested application for permit, the department having held a conference and a hearing in the matter, the Director of the department makes the following Findings of Fact, Conclusions of Law, Analysis and Order:

FINDINGS OF FACT

1. On May 4, 1992, Randall Jay Farley and Linda Diane Farley (applicant) submitted application for permit no. 43-07318 (application) to the department proposing the diversion of 0.22 cubic feet per second (cfs) of ground water to be used for heating, recreation and domestic purposes.

2. The proposed point of diversion is an existing artesian well (well) located in SWNWNW Section 23, T15S, R26E, BM., in Cassia County. This well is located on Bureau of Land Management land and is sometimes known as Bridge Spring. The well is approximately 430 feet deep, has a twelve (12) inch diameter casing and discharges water at a temperature of approximately 190 degrees Fahrenheit. The water discharged from the well flows in a ditch in an easterly direction approximately one-half (1/2) mile to an existing pond (reservoir) adjacent to the applicant's proposed place of use.

3. On June 22, 1992, Ivan Darrington (protestant) filed a protest against approval of the application.

4. On January 26, 1993, the department conducted a hearing on the matter at Burley, Idaho. The applicant was represented by Roger Ling, attorney-at-law and the protestant represented himself.

5. Issues identified in the matter by the protestant include the following:

- a) that approval of the application will reduce the amount of water under existing water rights,
- b) that the water supply itself is insufficient for the purpose for which it is sought to be appropriated,

APR 13 1993

- c) that the application is not made in good faith, and is made for delay or speculative purposes,
- d) that the applicant does not have sufficient financial resources with which to complete the work involved therein,
- e) that the application will conflict with the local public interest, and
- f) that the application is contrary to the conservation of water within the state of Idaho.

6. Exhibits accepted as part of the record include the following:

- a) Applicant's Exhibit No. 1. - Memorandum Agreement entered into on May 23, 1975 between Harriett P. Crank (Crank), a widow, and Edsil Ivan Darrington and Barbara Darrington, husband and wife.
- b) Protestant's Exhibit A - Warranty Deed dated May 21, 1975 between Harriet P. Crank, a widow, and Edsil Ivan Darrington and Barbara Darrington, husband and wife.
- c) Protestant's Exhibit B - Agreement between Ben V. Schmidt and Luceal Schmidt, husband and wife, and Guy Creek and Lois I. Creek, husband and wife, said agreement dated February 1, 1966.
- d) Protestant's Exhibit C - Agreement of Sale entered into on July 24, 1968 between Guy Creek and Lois I. Creek, husband and wife, and Paul Crank, a bachelor.

7. The hearing officer officially noticed certain department files and records including the following:

- a) License file 19094/43-02283.
- b) Claim to a water right no. 43-04098.
- c) Snake River Basin Adjudication claim no. A43-04098A filed by the applicant.
- d) Snake River Basin Adjudication claim no. A43-02283 filed by the protestant.

8. On May 26, 1943, the department conducted a field examination in connection with permit no. 19094/43-02283 which the department had issued on February 17, 1941, to Ben V. Schmidt who formerly owned the land of the applicant and protestant. The examination showed that the source of water (a hot artesian well) was located in the SE1/4NW1/4 section 23, T15S, R26E, BM. The examination also showed that water was diverted for irrigation from a reservoir located in the SW1/4NE1/4 section 23, T15S, R26E, BM. The exam shows that two (2) ditches were used to divert water from the reservoir.

9. As a part of the proof of application of water to

APR 13 1993

beneficial use for permit no. 19094/43-02283, on February 17, 1943, the permit holder, Ben V. Schmidt, filed a deposition with the department stating that he cools the water overnight in a reservoir and then uses the water for irrigation. The reservoir is the same reservoir involved in the pending protested matter.

10. On February 22, 1944, the department issued license no. 19094/43-02283 to Ben V. Schmidt based on the findings of the field examination described in Finding of Fact 8. above. The license authorized the diversion of 0.92 cfs of water from a hot well for the irrigation of 46 acres in Section 23, T15S, R 26E, BM. This license provided for the diversion of one (1) miner's inch per irrigated acre.

11. On September 16, 1980, Harriet P. Crank and Janice Crank filed Claim to a Water Right no. 43-04098 with the department pursuant to provisions of section 42-243, Idaho Code. Crank claimed the use of water from a hot artesian well with point of diversion in the NW1/4NW1/4 section 23, T15S, R26E, BM. The rate of diversion claimed was a total of 0.20 cfs for irrigation, domestic and livestock uses.

12. The applicant has filed Snake River Basin Adjudication (SRBA) claim no. A43-04098A with the department which claims the diversion and use of 0.08 cfs of water from the well for domestic and heating purposes. The priority of use claimed is January 1, 1935. The point of redirection associated with the claim is a screened inlet to a 1-1/2 inch black plastic pipe which has been placed in the bottom of the ditch and which conveys water from the well to the pond. The screened inlet is located in the ditch approximately 600 feet from the well.

13. The protestant has filed SRBA claim no. A43-02283 with the department which claims the diversion and use of 0.92 cfs of water from the well for the irrigation of 46 acres in the S1/2NE1/4 Section 23, T15S, R26E, BM. The point of diversion claimed is SWNE Section 23, T15S, R26E, BM. and the priority of use claimed is February 11, 1941.

14. In 1975, the applicant's immediate predecessor-in-interest, Harriett P. Crank, and the protestant entered into an agreement (1975 agreement). Among other provisions, the agreement specifically included the following:

- a) Crank owned all the heat rights in the water diverted from the well except for a two (2) inch pipe of water which could be used for heat by Darrington.
- b) Crank was to return the water which she used to the reservoir for use by Darrington for irrigation or livestock use.
- c) Crank was entitled to that portion of the well measured under the standard of a one-inch pipe of water.

d) Darrington was entitled to all other water from the well (except the Crank portion delivered through the one-inch pipe).

15. The 1975 agreement also states that the protestant "... shall have the right to use the water in the reservoir and the right of ingress and egress to the reservoir and the right of way for necessary ditches to remove water from the reservoir together with the right to repair and maintain ditches from the reservoir", (emphasis added).

16. Even though the protestant emphatically states that the parties and successors-in-interest to the 1975 agreement are bound by and obliged to comply with provisions of the agreement, the testimony presented clearly shows that at times, the parties have not complied with the terms and intent of the agreement. Examples of non-compliance include failure of Crank and successors to always clean the reservoir and the protestant's practice of periodically diverting water from the ditch leading to the reservoir thus depriving Crank and successors of the opportunity to use "all the heat rights" in the water.

17. Within the last five (5) years, the protestant has diverted water directly from the reservoir for irrigation and stockwater purposes and has diverted water from the ditch leading from the well to the reservoir thus preventing the water in the ditch from reaching the reservoir. The diversion works used to divert water from the reservoir, however, are presently in disrepair and are not operable.

18. The total rate of diversion (0.22 cfs) applied for by the applicant was based on the total rate of flow measured in the ditch about 50 feet from the well and was not determined by a calculation of heat transfer from the water needed in connection with the proposed uses.

19. The application proposes the heating of applicant's home which is a one story building with an area of approximately 2,500 square feet.

20. The applicant has made preparation for heating use of the water by adding additional insulation to the applicant's home and by purchasing and installing some space heating equipment.

21. The rate of diversion generally authorized by the department for single family domestic use is 0.04 cfs.

22. The applicant's recreation use will be a reuse of water diverted for either domestic or heating.

CONCLUSIONS OF LAW

1. Section 42-230, Idaho Code, defines a low temperature geothermal resource as follows:

...All ground water having a temperature of greater than eight-five (85) degrees Fahrenheit and less than two hundred twelve (212) degrees Fahrenheit in the bottom of the well...

2. The correct location of the hot artesian well which is the source of water in the captioned matter is within the NW1/4NW1/4 section 23, T15S, R26E, BM, not within the SE1/4NW1/4 as shown on license 19094/43-02283.

3. The protestant has not filed and the department has not approved any document which authorizes the change in point of diversion of licensed water right no. 43-02283 from the original diversion points at the reservoir to a point on the ditch which extends from the well to the reservoir.

4. While the provisions of the 1975 agreement between Crank and the protestant are not binding on the department, the agreement clearly shows that the intent was for Crank to use all of the heat in the water except for the heat in the water which would discharge through a 2 inch diameter pipe for use by the protestant. The agreement also clearly shows that the protestant was to divert water from the reservoir after the water had been used by Crank and discharged back to the reservoir.

5. The provisions of the 1975 agreement allowing use of the heat in the water by Crank or successor-in-interest Farley can not be fulfilled if the protestant diverts water from the ditch upgradient from the applicant's diversion thus preventing the water from reaching the applicant's point of diversion.

6. The protestant is entitled to divert water from the reservoir to the extent SRBA adjudication claim no. A43-02283 is determined to be valid in the SRBA. The protestant is not entitled to divert water from the ditch which carries water from the well to the reservoir.

7. The validity and extent of SRBA claim no. A43-04098A filed by the applicant and of SRBA claim no. A43-02283 filed by the protestant will be determined in the SRBA.

8. Applicant's proposed use of the water is non-consumptive except for incidental irrigation associated with domestic use.

9. Approval of the application will not injure water rights of the protestant. The applicant's use of the water for its heat will not diminish the amount of water available for non-heating uses.

10. The water supply is sufficient for the purposes for which it is sought to be appropriated and will provide a sufficient amount of heat for successful heating of the applicant's home and for the recreation and domestic uses sought by the applicants.

11. The application was made in good faith and was not made for delay or speculative purposes.

12. The applicant has sufficient financial resources with which to complete the work proposed in the application and, in fact, has already purchased and installed part of the equipment for heating the applicant's home.

13. The application is in the local public interest, since the use of low temperature geothermal resource water primarily for its heat value and secondarily for value as water is consistent with provisions of section 42-233(1), Idaho Code.

14. The application is not contrary to the conservation of water resources in Idaho and will allow the heat in the low temperature geothermal resource water to be used rather than wasted in a cooling reservoir.

15. Water is available for the uses proposed by the applicant.

16. The rate of diversion which the department approves should be based on calculations of the amount of heat transfer from the water needed to satisfy the applicant's proposed uses. The rate should not merely be based on the rate of water flow which the well discharges.

17. The applicant is authorized to divert water from the well rather than just redivert water from the ditch extending from the well to the pond if the applicant can obtain needed rights-of-way or other approvals.

18. The department should partially approve the application and issue a permit to the applicant with certain conditions and limitations.

ANALYSIS

The 1975 agreement between Crank and Darrington appears to divide up the use of the heat in the water discharging from the hot artesian well. When the agreement was signed, there was no recorded water right which supported the existence of a water right used for heating purposes or which supported the division of the use of heat in the water between the parties to the agreement. While the agreement is not binding on the state or the department, a decision of the department within the terms of the department's authority which is consistent with the agreement, appears to be desirable for the affected parties.

On one hand, the protestant insists that the provisions of the 1975 agreement are effective and binding on the parties and on the other hand the protestant has at times diverted all the water from the ditch leading to the pond thus precluding Crank or successors-in-interest to Crank to comply with the contract terms by utilizing the heat in the water. Even if the agreement did not exist, allowing use of the heat in the low temperature geothermal water resource water rather than allowing the heat to be wasted in a cooling reservoir is in the public interest and conserves energy.

Such approval, however, may not injure existing water rights.

Water rights of record do not authorize the protestant to divert water from the ditch before the water enters the reservoir. The terms of the 1975 agreement with respect to heating use can be met if the protestant diverts and uses water from the reservoir after the applicants have used the heat in the water and have returned the water to the reservoir.

The extent of the right of the protestant to use the water for heating will have to be determined in some proceeding other than the matter of this protested application.

The department calculated heat transfer requirements for the uses proposed by the applicant, since the applicant did not have and did not provide evidence of heat transfer and associated rate of flow requirements at the hearing. Assumptions in the department's determination of heat flow requirements include the following:

a) Design water temperature	=	120 degrees F.
b) Area of floor space	=	2,500 square ft
c) Temperature outside	=	-10 degrees F.
d) Temperature inside	=	70 degrees F.
e) Building efficiency *	=	0.67
f) Temperature required	=	72 degrees F.
g) Days/yr temp. below 70 degrees	=	270 days
h) Hrs/day temp. below 70 degrees	=	12 hours

* 0.67 is considered to be average efficiency as compared to Best (0.28), Good (0.44), Average (0.67) and Poor (1.11).

Using these assumptions, the required rate of flow for heating use was calculated to be 0.04 cfs.

The department should issue a permit authorizing the following diversion rates:

0.04 cfs for heating from September 1 to June 1
0.04 cfs for recreation year-round
0.04 cfs for domestic use year-round

0.08 cfs Maximum diversion rate

ORDER

IT IS THEREFORE, hereby ORDERED that application for permit no. 43-07318 is hereby **APPROVED** subject to the following limitations and conditions:

1. Use of water under this permit is subject to all prior water rights.

2. The issuance of this permit in no way grants any right-of-way or easement across the land of another.

3. The rate of diversion authorized under this permit when combined with the rate of diversion for adjudication claim no. A43-04098A to the extent determined to be valid in the SRBA shall not exceed a total of 0.08 cfs. This rate is further described as follows:

0.04 cfs for heating from September 1 to June 1
0.04 cfs for recreation year-round
0.04 cfs for domestic use year-round

0.08 cfs Maximum diversion rate

4. The applicant shall return to the reservoir the water which is diverted under terms of this permit for heating and recreation purposes.

5. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless the permit holder can show to the satisfaction of the Director of the department that delays were due to circumstances over which the permit holder had no control.

6. The permit holder shall install and maintain a device acceptable to the department by which the department can measure the rate of diversion.

7. If the permit holder plans to enlarge, modify or reconstruct the existing well, the permit holder shall obtain a drilling permit pursuant to section 42-235, Idaho Code. Prior to any construction on the well, the permit holder shall file a drilling prospectus and a surety bond with the department in the minimum amount of five thousand dollars (\$5,000) pursuant to section 42-233, Idaho Code. The drilling prospectus shall provide for the prevention of uncontrolled surface or subsurface flow from the well.

8. Proof of construction of works and application of water to beneficial use shall be submitted to the department on or before the date shown in the final Memorandum Decision and Order of the department.

Signed this 8th day of February, 1993.


L. GLEN SAXTON
Hearing Officer

APR 13 1993

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 8th day of February, 1993, I mailed a true and correct copy of the foregoing Proposed Memorandum Decision and Order and Order Issuing the Proposed Memorandum Decision and Order, postage prepaid, to the following:

Ivan Darrington

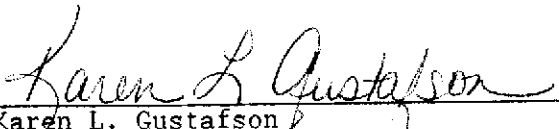
Box 136
Almo, ID 83312

Randall/Linda Farley

HC 72
Malta, ID 83342

Roger D. Ling

PO Box 396
Rupert, ID 83350



Karen L. Gustafson
Secretary/Records Manager

APR 15 1993

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of applicant RANDALL JAY & LINDA DIANE FARLEY Phone 208-645-2577

Post office address HC 72 MALTA ID. 83342

2. Source of water supply ARTESIAN WELL which is a tributary of SINKS AND EVAPORATES

3. Location of point of diversion is SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of NW $\frac{1}{4}$, Govt. Lot

Sec. 23 Township 15S Range 26E B.M. CASSIDY County; additional

points of diversion if any: _____

4. Water will be used for the following purposes:

Amount .22 for HEATING purposes from SEPT 1 to JUNE 1 (both dates inclusive)
(cfs or acre-feet per annum)

Amount .22 for RECREATION purposes from SEPT 1 to AUG 31 (both dates inclusive)
(cfs or acre-feet per annum)

Amount .10 for DOMESTIC purposes from SEPT 1 to AUG 31 (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

5. Total quantity to be appropriated is (a) .22 and/or (b) _____
cubic feet per second acre feet per annum

6. EXISTING WELL
Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. EXISTING
DITCH FROM ARTESIAN WELL
TO EXISTING POND. LENGTH OF DITCH $\frac{1}{2}$ MILE WIDTH
OF DITCH VARIES TO 2 FEET - DEPTH OF DITCH VARIES TO $1\frac{1}{2}$ FEET.

b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total
reservoir capacity _____ acre-feet; period of year when water will be diverted to storage:
_____ to _____ inclusive.

c. EXISTING Proposed well diameter is 12 inches; EXISTING depth of well is 430 feet.

d. Is ground water with a temperature of greater than 90°F being sought? YES

7. Time required for the completion of the works and application of the water to the proposed beneficial use is
2 years (minimum 1 year).

APR 18 1993

Known locally as the Bridge Spring.

~~EFFICIENTLY USE FOOD ALLEYS IN USE.~~

~~EXISTING WATER RIGHTS ALREADY DIVIDED AT DIVISION
ARE BEING CONFIRMED AT SRDA. THIS APPLICATION IS TO MAKE~~

12. Remarks:

applicant to make this filing.

b. Who owns the land to be irrigated or price of water to be used?

a. Who owns the property at tract _____
b. Who owns the land to be irrigated or place of use? Allegiant

Who owns the property at the point of diversion? Blm

A 43-04098A

10. Describe any other water rights used for the same purposes as described above.

Total number of acres to be irrigated

[illegible]

ponding place of use below. See instructions for standard symbols.

a. If water is for irrigation, mark

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

9. Description of place of use:

c. Municipal; show name of municipality.
d. Domestic; show number of households.
e. Other; describe fully. Water to heat one home & other domestic use, then to pool (recreation) & to pond -

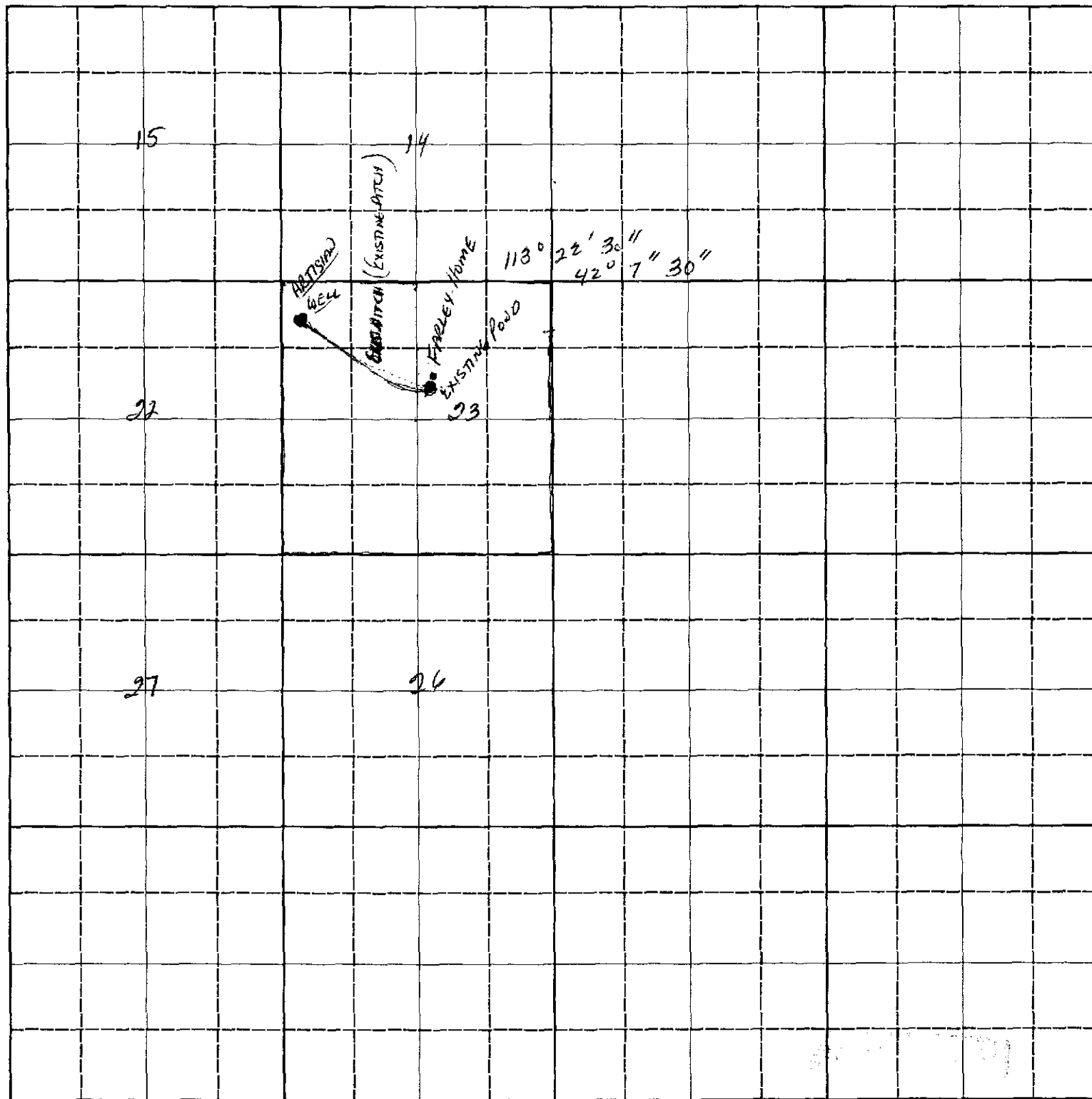
c. Municipal; show name of municipality.

b. Stockwatering; list number and kind of livestock.

a. Hydropower; show total feet of head and proposed capacity in KW.

8. Description of proposed uses (if irrigation only, go to item 9):

13. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.



Scale: 2 inches equal 1 mile.

APR 15 1980

BE IT KNOWN that the undersigned hereby makes application for permit to appropriate the public waters of the State of Idaho as herein set forth.

Randall J. Farley
(Applicant)
Linda Anne Farley

DEC 21 1992
IDAHO DEPARTMENT OF WATER RESOURCES

e. Other:

d. The water right acquired under this permit if for hydropower purposes shall be junior and subordinate to all rights to the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this permit and shall not give rise to any right or claim against any future rights to the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this permit.

c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.

_____, 19____

b. Proof of construction of works and application of water to beneficial use shall be submitted on or before

a. SUBJECT TO ALL PRIOR WATER RIGHTS.

1. Approval of said application is subject to the following limitations and conditions:

Idaho No. _____, and said application is hereby _____.

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of

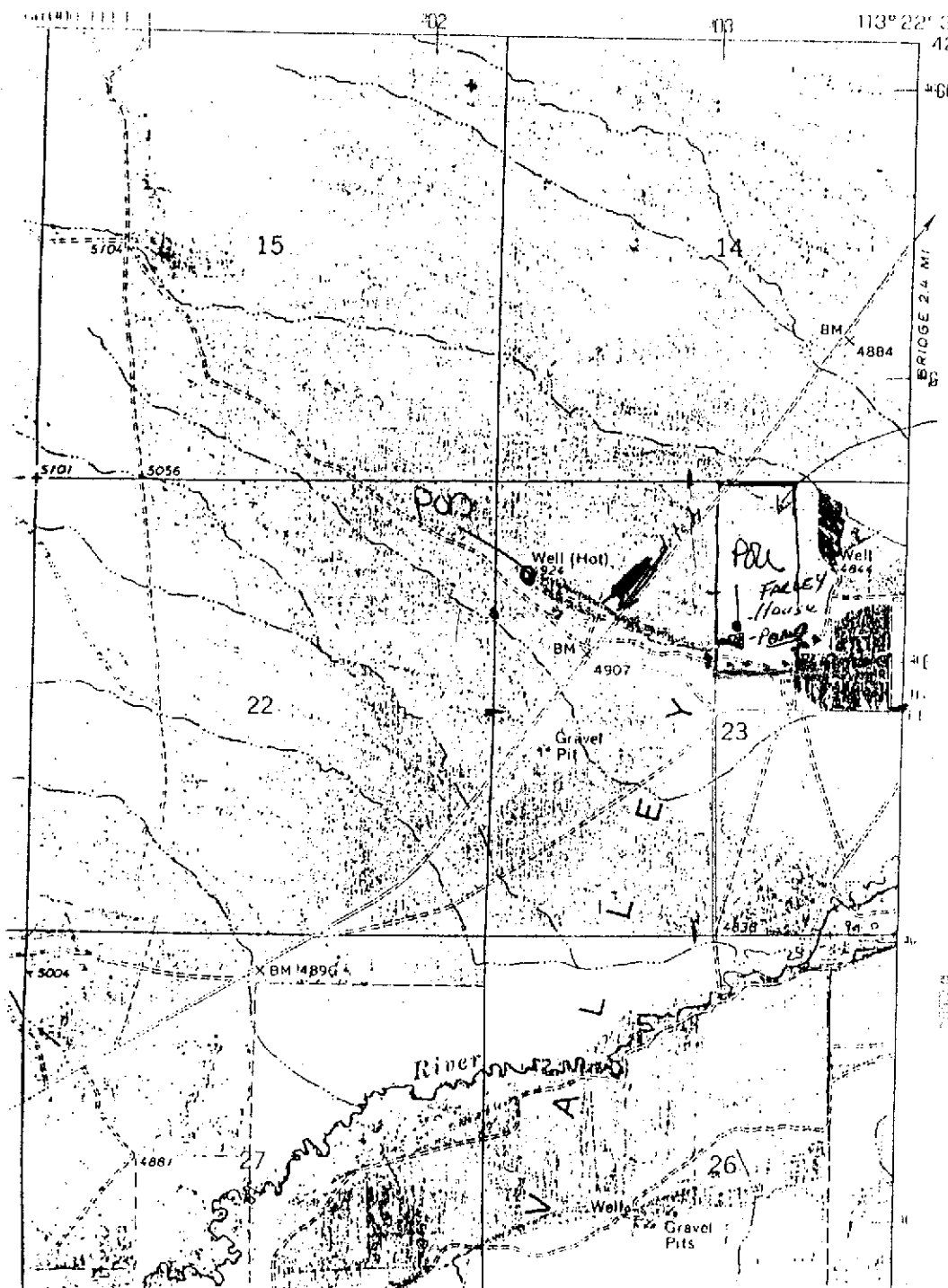
ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

Received by	<i>Kf</i>	Date	5-4-92	Time	10:30	Preliminary check by	MTS
Fee \$	45.00	Received by	MTS	#	5014499	Date	5-5-92
Publication prepared by	<i>Mr. B.</i>	Date	6/10/92	Published in	<i>So. So. News</i>		
Publication approved	<i>Mr. Baldwin</i>	Date	7-8-92				

DD81

S 23²⁶ T 15 S R 10 E 23

CHOKECHERRY CANYON ORTHOPHOTOQUAD
IDAHO



APR 13 1993

43-07318



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

March 29, 2002

RANDALL JAY FARLEY
LINDA DIANE FARLERY
2931 NARROWS RD
MALTA ID 83342

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 43-7318

Dear Permit Holder:

The department acknowledges receipt of the proof of beneficial use form submitted for the above referenced permit. The next step in the process of developing a water right is for the department to contact you to schedule a field examination to determine and confirm the use being made of the water, and that it meets the permitted beneficial use.

Be advised that Section 42-248, Idaho Code, requires you or the owner of these water rights to maintain current ownership and address records on file with the department. Forms to file a change of ownership of a water right and/or a change in the address of the water right owner are available from any department office.

If you have questions, please contact the **Southern** Regional Office of the department in Twin Falls at (208) 736-3033.

Sincerely,

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

Encl.

c: IDWR - Regional Office (w/encl.)

MICROFILMED

MAY 16 2002

ANALYSIS SHEET FOR PROOF OF BENEFICIAL USE

Permit No.: 43-7318

Reviewed By: dgibson

Date: March 29, 2002

	<u>Yes</u>	<u>No</u>		<u>Yes</u>	<u>No</u>
Proof received timely?	X		Drilling permit required?		X
License examination fee required?	X		Drilling permit No.:		
Appropriate fee submitted?	X		Drilling permit upgrade needed?		
Receipt No.:		C059993	Well driller's report filed?		X
Additional Amount Due:			Measuring device required?		X
Name and address same as permit?		X	Measuring device installed?		
Are the water uses correct?	X		Measure device waiver requested?		

Priority Calculation

Date proof received	02/15/2002
Date proof due	- 04/01/2002
Lapse notice sent	-
No. of days late	= 0
Holiday allowance	+
Priority date	+ 05/05/1992
New priority date	= 05/05/1992

Deficiencies of Actions Items

Acknowledge proof.

January 31, 2002

RANDALL JAY FARLEY
LINDA DIANE FARLEY
2931 NARROWS RD
MALTA, ID 83342

PROOF DUE NOTICE

RE: PERMIT NO. 43-7318

Dear Permit Holder:

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before April 01, 2002. (See last page of your approval permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a completed field examination report prepared by a certified water right examiner may be used to submit the required proof.

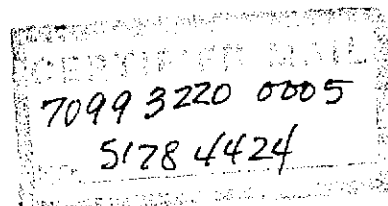
If you have not fully completed your project, and you or a previous owner of this permit have not received a prior extension of time, you may request an extension of time if the delay is for reasonable cause as provided in Section 42-204, Idaho Code. If you have been prevented from proceeding by a governmental agency or by litigation which might bring title to the water in question, more than one extension of time can be granted. An extension of time request form is enclosed for your convenience.

Either an acceptable proof of beneficial use submittal or an acceptable request for an extension of time must be received by this department on or before the above described proof due date. If neither is received, the department will send you a lapse notice. Within sixty (60) days of the mailing of the lapse notice, the permit will no longer be of any force nor effect.

Sincerely,

Deborah J. Gibson, Admin. Asst.
Water Allocation Bureau
Enclosures

MICROFILMED
MAY 19 2002



ANALYSIS SHEET FOR EXTENSION OF TIME

Permit No. 43-01318 Reviewed by Qj Date 3-3-98

BASIC INFORMATION

2-19-98 Date stamp received
yes Extension received timely
yes Fee received and receipted
yes Name and signature same as permit
yes Address Change

BASIS FOR EXTENSION REQUEST

_____ Has adequate work been completed to demonstrate due diligence?
_____ Has the permit been involved in litigation?
Is supporting documentation needed to complete the file? _____ Requested? _____
_____ Is delay by a government agency?
Is supporting documentation needed to complete the file? _____ Requested? _____
_____ Is the project more than 25,000 acre feet for irrigation or 10,000 acre feet for a reservoir?

ACTION TAKEN Request proof of litigation

info. received
Extend to April 1, 2002 on the basis of litigation.

PRIORITY CALCULATION

Date extension received	_____	=	_____
Proof due date	_____	=	_____
Number of days late	_____	=	_____
Priority date	_____	=	_____
New Priority Date	_____	=	_____

DATA ENTRY

New Address 2931 Narrows Rd
Change Proof Due Date 4-1-2002
Change Priority Date X



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

June 25, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

Randall and Linda Farley
2931 Narrows Rd
Malta ID 83342

RE: Permit No. 43-07318

Dear Permit Holder:

Enclosed is a copy of the approved request for extension of time submitted in connection with the above referenced permit which extends the time within which to submit proof of beneficial use to **April 1, 2002**. Please note that the department has granted this extension based on a **delay caused by litigation**. It is important that you work diligently toward the completion of the development during the construction period allowed since the department **may not** be able to grant additional extensions in connection with this permit.

Section 42-248, Idaho Code, which became effective on July 1, 1996, requires you or the owner of this water right to maintain current ownership and address records on file with the department. Please contact any office of the department for the proper form to file a change of ownership of a water right and/or a change in the address of the owner.

Please contact the department if you have any questions regarding this matter.

Sincerely,

JULIE L. YARBROUGH

Senior Secretary, Water Allocation Bureau

Enclosure

c: IDWR - Regional Office

MICROFILMED

JUN 26 1998

RECEIVED

JUN 19 1998

Department of Water Resources

Memorandum

To: GLEN SAXTON *MS*

CC: FILE A43-04098A

From: STEVE CLELLAND *SC*

Date: 06/17/98

Re: PERMIT 43-07318

Glen, I have reviewed the Farley SRBA claims in light of the recent decision by Judge Hurlbutt. I have confirmed the database is correct for the recommendation of a partial decree by the court.

I believe the pending permit 43-07318 has potential to increase the flow rate beyond that allowed in the SRBA claims and it does not duplicate uses or flows found in those claims.

It appears the only claim that may overlap with the permit is the claim A43-04098A. They both contain uses for Heat and Domestic and the permit may result in an increase in the total flow used by the Farleys for these uses. They have changed the diversion system to deliver the water to their home since my original exam, which may have increased the total amount diverted.

The recreation use for a pool does not overlap with the other recreation uses already granted under the SRBA claim A43-10655. In my last discussion with the Farley's they indicated they had not yet fully constructed the pool under this permit, however, they are planning on the construction if the extension is granted for the permit.

MICROFILMED
JUN 26 1998

COPY

RECEIVED
MAY 28 1998
Department of Water Resources
Southern Region
COURT OF
DISTRICT
1998 MAY -8 AM 11:50
CASSIA COUNTY CLERK
BY _____ DEPUTY

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CASSIA

In Re: SRBA	)	Cassia County Case No. CV 92-00778D
Case No. 39576	)	
EDSIL IVAN DARRINGTON and	)	SRBA Case No. 94-00008
BARBARA DARRINGTON, husband	)	MEMORANDUM DECISION:
and wife,	)	FINDINGS OF FACT AND
Plaintiffs	)	CONCLUSIONS OF LAW
v.	)	
RANDALL J. FARLEY and LINDA	)	
FARLEY, husband and wife,	)	
Defendants	)	

*Appearances By: William A. Parsons, Parsons Smith & Stone, for Plaintiffs
Edsil Ivan Darrington and Barbara Darrington
Gregory W. Moeller, Rigby Thatcher Andrus Rigby
Kam & Moeller, for Defendants Randall J. Farley
and Linda Diane Farley*

I.
PROCEDURAL HISTORY

Plaintiffs Edsil Ivan Darrington and Barbara Darrington, husband and wife, initiated Cassia County Case No. CV-92-00778D by filing a *Complaint* in Cassia County. Defendants Randall J.

MEMORANDUM DECISION
G:\ORDERS\DARRING.MD
5/6/98

MICROFILMED
JUN 26 1998

Farley and Linda Farley, husband and wife, answered generally denying the allegations in the complaint and counterclaimed.

The Farleys filed a *Motion for Disqualification* pursuant to I.R.C.P. 40(d)(1). An *Order of Disqualification and Assignment* was granted and the case was assigned to this court.

The Farleys filed a *Motion for Summary Judgment*, to which the Darringtons filed a *Memorandum in Opposition to Motion for Summary Judgment*. Summary judgment was granted dismissing count three of the complaint. Summary judgment was denied as to all other counts in the complaint and counterclaim on the basis that genuine issues of material fact remained.

Trial was held, during which the court found that further investigation of the water rights at issue was necessary. Therefore, the trial was bifurcated and the Idaho Department of Water Resources (IDWR) was ordered to conduct further investigation. Following IDWR's further investigation, the second phase of the trial took place. Both parties briefed all issues presented. This decision follows.

II.

FINDINGS OF FACT

This is a dispute over ownership of a water right to a "hot water well" (hot well). The water from this well was initially licenced as number 19094/43-02283 to Ben V. Schmidt in 1941. The license authorized the diversion of .92 cfs of water from a hot well for the irrigation of 46 acres. In 1954, Mr. Schmidt was granted permit number 43-02413 which allowed him to drill a cold water well to irrigate the land previously irrigated by the hot well. The rights to water from the hot well were transferred from Ben V. Schmidt to Guy and Lois I. Creek in 1966. The Creeks subsequently transferred the hot well right to Janice and Paul Crank, who, in 1969, transferred the right to Harriet P. Crank.

The Crank property was divided on May 21, 1975, when Harriet Crank sold 120 acres to the Darringtons. Harriet Crank retained ownership of the 40-acre parcel of land upon which the hot well is located. The water from the hot well flowed into a ditch on Harriet Crank's property and then into a reservoir after the "heat" has been used. The reservoir is also located on Harriet Crank's retained 40 acres.

Subsequently, the Darringtons filed a complaint in the district court of Cassia County. The Darringtons assert that the Farleys illegally interfered with the Darringtons' right to the water from the hot well.

On October 8, 1996, in response to this court's *Order to IDWR for Further Investigation*, IDWR Field Agents Steve Clelland and Frank Hitchcock investigated the land and irrigation works in dispute. The Agents first met with the Farleys and observed that the hot well head was a sealed system and that there was no two-inch pipe to deliver water to the Darringtons for "heat purposes." *Response to SRBA Order* at 2. The flow from the hot well was measured at .14 cfs. *Id.* The Agents located the ditch from the hot well to the reservoir where Agent Clelland had previously seen the PVC pipe used by the Darringtons to divert water. *Id.* The Agents then examined the ditch that would have delivered water in accordance with the *Memorandum Agreement*. *Id.* Agent Clelland determined that the ditch was in unusable condition and that it appeared to not have carried water since his initial investigation in 1992. *Id.*

Agents Clelland and Hitchcock then proceeded to investigate the Darringtons' land and irrigation works. *Id.* The Agents asked to see the stock water mechanism used for the water from the hot well. *Id.* The Darringtons were only able to point out several pieces of PVC pipe laying around the fence that divided their land from the Farleys'. The Agents did not observe any stock troughs or watering sites, and the six-acre field appeared to be irrigated from the direction opposite the hot well. *Id.* When questioned about their use of the hot well water, the Darringtons conceded that they needed to supplement the hot well water to irrigate the entire acreage claimed. *Id.*

At trial, neither party established, through credible evidence, that the facts surrounding this dispute are inconsistent with the investigation by IDWR.

The Darringtons seek to enforce the *Memorandum Agreement*. *Post Trial Brief and Argument of Plaintiffs* at 2. The Farleys argue that the Darringtons' have forfeited their right to use water from the hot well. *Defendants' Post Trial Reply Brief* at 2-3. In the alternative, the Farleys assert that the Darringtons do not have a right to use the water from the hot well in any way inconsistent with the *Memorandum Agreement*. *Id.* at 3. Finally, the Farleys argue that the

Darringtons cannot be entitled to damages based on crop loss because the Farleys' were not proven to be at fault. *Id.*

III.

ISSUE PRESENTED

Have the Darringtons Forfeited Their Right to Water Under the *Memorandum Agreement*?

IV.

ANALYSIS

Both the Darringtons and the Farleys admit that the *Memorandum Agreement* controls their respective rights to the water of the "hot well," absent a finding of forfeiture or abandonment. The Darringtons seek enforcement of their right to take water from the reservoir and a two-inch pipe of "heat rights" under the *Memorandum Agreement*. The Farleys allege that the Darringtons' have forfeited their rights due to five consecutive years of nonuse.

The *Memorandum Agreement* does not supersede Idaho statutory law concerning the appropriation and use of water; a contractual right to water may be lost by forfeiture. Forfeiture is not favored in Idaho and must be proven by clear and convincing evidence by the party asserting it. *Jenkins v. State Dept. of Water Resources*, 103 Idaho 384, 647 P.2d 1256 (1982). A water right is forfeited if it is unused for five years, absent a legal excuse. *Id.* Clear and convincing evidence was offered at trial to support the Farleys' allegation that the Darringtons have forfeited their right to water from the hot well.

Specifically, the evidence provided by IDWR Field Agent Steve Clelland supporting forfeiture is clear and convincing. On April 27, 1992, Agent Clelland examined the area around the reservoir. In detailed notes, Agent Clelland wrote:

There is [sic] remains of a culvert used to drain the pond through the dam but the control device looks unusable and Mrs. Farley said it does not work at all. The only way to empty the pond is to divert the incoming flows and evaporate the pond dry. Below the dam is an old ditch that hasn't carried water for over 5 years or more. This ditch runs off through the Farley property.

Defendants' Exhibit I at 2. Agent Clelland also noted that photographs taken in August 1976 and in August 1987 show no flows extending beyond the "pond." On October 8, 1996, at the request of this court, Agent Clelland reexamined the area around the reservoir. Again, the condition of the ditch was in disrepair:

This culvert was in unusable condition based upon my observations, same as my exam on 4/27/1992. I began to walk the old ditch to see the condition of the ditch and possible deliveries it could make. I traced the full length of the ditch until no ditch could be identified; the ditch appears to have not carried water in several years. There were several large breaches of the ditch along the entire length of the ditch and no observable repairs were noted anywhere on the ditch.

Response to SRBA Order at 2. Based on his examinations, Agent Clelland summarized his findings of the Darringtons' claim as:

A43-02283 is based on a license which indicated more acres than have ever been irrigated and possibly with more water than ever flowed After observing the lands and diversions claimed it appears this right has not been used in many years.

The diversion structure on the pond has deteriorated beyond use and the delivery ditch shows evidence of not carrying water for several years. The ditch is in severe disrepair and will not hold water at several points along the way. . . .

The claim for stock use did not appear valid based on the descriptions given by the claimant. . . .

Mr. Darrington claims he has photographs of the past times he used this water and he told me Ben Schmidt is still living in Nevada. It appears he has several resources to support his position and yet has not pursued them.

The recommendation for this right based on the evidence available to IDWR is for disallowal.

Id. at 5. It is found that Agent Clelland's findings and testimony are consistent and were not credibly contradicted at trial.

The testimony of George Darrington, the Darringtons' son, supported the findings of Agent Clelland. George Darrington testified that the last time he was aware that the headgate at the reservoir was actually used to deliver water to the Darringtons' property was around 1984.

The Farleys have established, by clear and convincing evidence, a *prima facie* case of forfeiture of the Darringtons' right to water from the reservoir. The Darringtons assert that the right has been used. However, the Darringtons concede that such use has been in violation of the *Memorandum Agreement*.

The Darringtons' argue that the water has been put to beneficial use by diverting it with PVC pipe above the reservoir. The Darringtons had a contractual right to take water from the reservoir. *Memorandum Agreement* at 3. The Darringtons also had the right of "ingress and egress to the reservoir and the right of way for necessary ditches [sic] to remove water from the reservoir and together with the right to repair and maintain the ditches from the reservoir." *Id*. However, the Darringtons did not have the right to divert the water above the reservoir. "[A]n easement does not give its owner the right to commit a trespass upon the servient tenement, or to exercise the use of the easement in any manner which happens to suit his pleasure." 2C. Kinney, *THE LAW OF IRRIGATION AND WATER RIGHTS*, § 992 at 1754 (1912).

One of the fundamental tenets of Idaho water law is that a trespasser cannot beneficially use water and acquire a lawful water right.¹ *Lemmon v. Hardy*, 95 Idaho 778, 780, 519 P.2d 1168, 1170 (1974). This court is equally convinced that proof of beneficial use by trespass cannot establish a "use" of water to rebut a claim of forfeiture. The Darringtons' attempts at diversion of the water above the reservoir cannot be considered instances of beneficial use.

The *Memorandum Agreement* also provides the Darringtons "heat rights" to the water from the hot well: "All heat rights from the well . . . shall belong to Crank, except a 2 inch pipe of water for heat may be used by Darringtons. . . ." The Farleys maintain that the Darringtons have forfeited the heat rights. The Darringtons assert that the water has been used for irrigation and stock water purposes.

Agent Clelland was unable to find evidence of stock watering or irrigation use from the "two inch heat right." Again, Agent Clelland's testimony was not persuasively contradicted at

¹ It is generally held that a water right initiated by trespass is void. That is to say, one who diverts water and puts it to a beneficial use by aid of a trespass does not, pursuant to such trespass, acquire a water right. Any claim of right thus initiated is void. *Basset v. Swenson*, 51 Idaho 256, 259, 5 P.2d 722, 723 (1931).

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trial. Nor was there mention of a "heat right" in the Darringtons' complaint. The Farleys have established, by clear and convincing evidence, that if the "heat right" ever was used by the Darringtons, it has been forfeited.

The questionable evidence of use provided by the Darringtons was also in violation of I.C. § 42-233(1). The Farleys persuasively cite I.C. § 42-233(1) as setting forth the rules for appropriations from geothermal wells:

The appropriation may be perfected by means of the application, permit and license procedure as provided in this chapter for groundwater, provided that low temperatures geothermal resources shall be utilized primarily for heat value and secondarily for the value as water. Usage of a low temperature geothermal resource primarily for reasons other than heat value is not a beneficial use of the resource, unless the director of the Department of Water Resources exempts the proposed use.

The Darringtons purported to use the "heat right" for irrigation and stock watering use. Therefore, the Darringtons' purported use of the "heat right" is in violation of I.C. § 42-233(1) which mandates that geothermal resources be used primarily for heat value and secondarily as water. Any use of water by the Darringtons in violation of I.C. § 42-233(1) cannot be considered beneficial use to rebut a claim of forfeiture.

The Darringtons have forfeited their right to water from the hot well based on clear and convincing evidence establishing five years of consecutive nonuse as recommended by IDWR.

The Farleys also seek an award of attorney's fees under I.R.C.P. 54(e)(1), which states: "[A]ttorney's fees may be awarded by the court only when it finds, from the facts presented to it, that the case was brought, pursued or defended frivolously, unreasonably or without foundation." IT IS FOUND THAT the Darringtons are not liable for attorney's fees under the above standard. The Farleys' claim for attorney's fees is DENIED.

V.

ORDER

1. Claims A43-04098A, A43-109382, A43-10655 by Farleys shall be licensed in conformity with the Recommendation of IDWR Field Agent Steve Clelland.
2. Claim A43-02283 is found to be forfeited, and therefore denied.

IT IS SO ORDERED.

DATED May 6, 1998



DANIEL C. HURLBUTT, JR.
Presiding Judge
Snake River Basin Adjudication

MEMORANDUM DECISION
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5/6/98

RECEIVED
MAY 21 1998

Permit # 43-07318

093 AUG 12 PM 2:59

DISTRICT COURT-SRBA
TWINFALLS COLEMAN
FILED _____

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CASSIA

In Re: SRBA
Case No. 39576

EDSIL IVAN DARRINGTON and
BARBARA DARRINGTON, husband
and wife,

Plaintiffs

v.

RANDALL J. FARLEY and LINDA
FARLEY, husband and wife,

Defendants

Cassia County Case No. CV 92-00778D

SRBA Case No. 94-00008

ORDER SETTING TRIAL

IT IS ORDERED that the trial in the above-referenced matter is set for September 26, 1996, commencing at 9:00 a.m. at the Snake River Basin Adjudication District Court, 253 3rd Avenue North, Twin Falls, ID.

IT IS SO ORDERED.

DATED August 12, 1996.



DANIEL C. HURLBUTT, JR.

Presiding Judge

Snake River Basin Adjudication

MICROFILMED

ORDER SETTING TRIAL
N:\ORDERS\DARRING.SET
8/12/96

JUN 26 1998

V.

-10382 ORDER

1. Claims A43-04098A, A43-109382, A43-10655 by Farleys shall be licensed in conformity with the Recommendation of IDWR Field Agent Steve Clelland.
2. Claim A43-02283 is found to be forfeited, and therefore denied.

IT IS SO ORDERED.

DATED May 6, 1998



DANIEL C. HURLBUTT, JR.
Presiding Judge
Snake River Basin Adjudication

MICROFILMED

MAY 25 1998

Dear Mr. Saxton,

On 2/19/98, I requested for an extension of time because of ongoing litigation involving our water right, and on or just after March 3 of this year I received a letter from the department of water requesting evidence of the litigation in question. I sent a copy of an order for a trial issued by Judge Hurlbutt but received no reply, I assumed that everything was ok, as the trial was going on and we were waiting for the outcome. On May 8th we received the decision of the court. As soon as we could, May 28, we went to Twin Falls to find out what we need to do next, we found out that no extension of time was granted, and that no matter what the Judgement was we still had to prove up with the water resources. We are willing to do what we must to make this mix up right. I am Faxing you the Judgement of the court, and the order of the trial that I sent the Department of Water Resources some time in March of this year.

Yours truly Randy Farley

Permit no. 43-07318

MICROFILMED

JUN 26 1998



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

March 3, 1998

Randall and Linda Farley
2931 Narrows Rd
Malta ID 83342

RE: Permit No. 43-07318

Dear Permit Holder:

The Department acknowledges receipt of your request for extension of time. The request states that the delay in completion of this project is due to litigation of the ownership of the well. Before the department takes action on your request, you will need to supply evidence of the litigation in question.

Please provide the documentation within **thirty (30) days** of the date of this mailing and address your correspondence to my attention.

If you have any question regarding this matter, please contact me at (208)327-7953.

Sincerely,

JULIE L. YARBROUGH
Senior Secretary, Water Allocation Bureau

c: IDWR - S. Region

MICROFILMED

JUN 25 1998

January 31, 1998

RANDALL JAY FARLEY
LINDA DIANE FARLEY
HC 72
MALTA ID 83342

PROOF DUE NOTICE

RE: PERMIT NO. 43-07318

Dear Permit Holder:

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before April 1, 1998.

(See last page of your approved permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a complete field examination report prepared by a certified water right examiner may be used to submit the required proof.

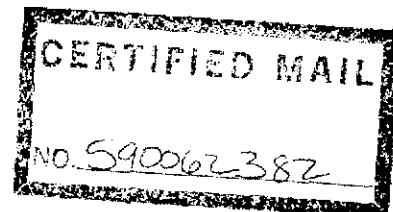
If you have not fully completed your project, and you or a previous owner of this permit have not received a prior extension of time, you may request an extension of time if the delay is for reasonable cause as provided in Section 42-204, Idaho Code. If you have been prevented from proceeding by a governmental agency or by litigation which might bring title to the water in question, more than one extension of time can be granted. An extension of time request form is enclosed for your convenience.

Either an acceptable proof of beneficial use submittal or an acceptable request for an extension of time must be received by this department on or before the above described proof due date. If neither is received, the department will send you a lapse notice. Within sixty (60) days of the mailing of the lapse notice, the permit will no longer be of any force nor effect.

SINCERELY,

JULIE L. YARBROUGH
Senior Secretary

Enclosures



MICROFILMED
JUN 26 1998

ANALYSIS SHEET FOR EXTENSION OF TIME

Permit No. 43-07318 Reviewed by [Signature] Date 3-31-95

BASIC INFORMATION

3-27-95 Date stamp received

Yes Extension received timely

Yes Fee received and receipted

Yes Name and signature same as permit

No Address Change

BASIS FOR EXTENSION REQUEST

Yes Has adequate work been completed to demonstrate due diligence?

_____ Has the permit been involved in litigation?
Is supporting documentation needed to complete the file? _____ Requested? _____

_____ Is delay by a government agency?
Is supporting documentation needed to complete the file? _____ Requested? _____

_____ Is the project more than 25,000 acre feet for irrigation or 10,000 acre feet for a reservoir?

ACTION TAKEN *Should extend to April 1, 1998, on basis of due diligence.*

PRIORITY CALCULATION

Date extension received	_____	=	_____
Proof due date	_____	=	_____
Number of days late	_____	=	_____
Priority date	_____	=	_____
New Priority Date	_____	=	_____

DATA ENTRY

New Address X _____

Change Proof Due Date 4-1-98 _____

Change Priority Date X _____



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

April 3, 1995

Randall and Linda Farley
HC 72
Malta, ID 83342

RE: Permit No. 43-07318

Dear Permit Holder:

Enclosed is a copy of the approved request for extension of time. The time within which to submit proof of beneficial use is extended to **April 1, 1998**. Please note that the department has granted this extension based on **due diligence**. It is important that you work diligently toward the completion of this project during the construction period allowed since the department will not be able to grant additional extensions based on due diligence.

If you have any questions or if I can be of any further assistance, please feel free to contact this office.

Sincerely,

JULIE L. YARBROUGH
Senior Secretary

Enclosure

C: IDWR - Regional Office

APR 13 1995

January 31, 1995

RANDALL JAY FARLEY
LINDA DIANE FARLEY
HC 72
MALTA ID 83342

PROOF DUE NOTICE

RE: PERMIT NO. 43-07318

Dear Permit Holder:

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before April 1, 1995. (See last page of your approved permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a complete field examination report prepared by a certified water right examiner may be used to submit the required proof.

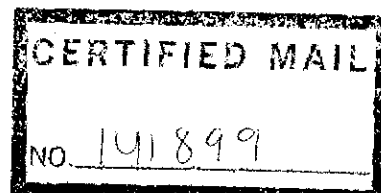
If you have not fully completed your project, and you or a previous owner of this permit have not received a prior extension of time, you may request an extension of time if the delay is for reasonable cause as provided in Section 42-204, Idaho Code. If you have been prevented from proceeding by a governmental agency or by litigation which might bring title to the water in question, more than one extension of time can be granted. An extension of time request form is enclosed for your convenience.

Either an acceptable proof of beneficial use submittal or an acceptable request for an extension of time must be received by this department on or before the above described proof due date. If neither is received, the department will send you a lapse notice. Within sixty (60) days of the mailing of the lapse notice, the permit will no longer be of any force nor effect.

SINCERELY,

JULIE L. YARBROUGH
Senior Secretary

Enclosures



RECEIPT
For Monies Paid
to the
Idaho Department of Water Resource

43-7318

Receipt No: 0008863

Date: 10/27/1995
Time: 09:40:32

Received

From: PARSONS SMITH STONE & FLE

Type of Payment	Program Acct	Amount
TRANSCRIPT FEES	12100	229 21 1205
		94.00

Total

\$94.00

CHECK 7682

Region: STATE

Signature:

J. Wansant

Darrington
43-7318

VP

RECEIVED

APR 18 1995

PARSONS, SMITH, STONE & FLETCHER

WILLIAM A. PARSONS
RICHARD K. SMITH
RANDOLPH C. STONE
WM. KENT FLETCHER

ATTORNEYS AT LAW
137 WEST 13TH STREET
P. O. BOX 910
BURLEY, IDAHO 83318

TELEPHONE
(208) 678-8382
FAX NO.
(208) 678-0146

October 25, 1993

Department of Water Resources
1301 North Orchard
Statehouse Mail
Boise, Idaho 83720-9000

RECEIVED
OCT 26 1993
Department of Water Resources

RE: Darrington v. Farley
Cassia County Case No. SP 93-00103

Gentlemen:

Enclosed is the check in payment of the balance for
transcribing the tapes in the above matter.

Very truly yours,

William A. Parsons
William A. Parsons

WAP:rt
Enc.



DEPARTMENT OF WATER RESOURCES

1301 North O'Farrell Street, Statehouse Mail, Boise Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

September 2, 1993

William A. Parsons
PARSONS, SMITH, STONE & FLETCHER
P. O. Box 910
Burley, ID 83318

Dear Mr. Parsons:

Re: Darrington v. Farley, et al.
Cassia County Case No. SP-93-00103

Enclosed is a copy of the billing from Northwest Transcripts. This is the service the department uses for transcribing our tapes. Note that the final cost is \$194.00. Since you have already paid a \$100.00, the balance is \$94.00.

Please remit this amount soon.

Sincerely,

RITA I. FLECK
Legal Secretary

Enc.

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF THE APPLICATION)	
FOR PERMIT NO. 43-07318 IN THE)	NOTICE OF LODGING
NAME OF RANDALL JAY AND)	OF TRANSCRIPT
LINDA DIANE FARLEY)	
_____)	

~~TO: ALL PARTIES OR THEIR COUNSEL OF RECORD~~

YOU ARE HEREBY NOTIFIED, pursuant to I.R.C.P. 83(o), that the transcript of the testimony and proceedings of the hearing before the Department of Water Resources in this matter has been lodged with the Department in accordance with I.R.C.P. 83(k)(2).

YOU ARE FURTHER NOTIFIED, that the Department is enclosing with this notice to counsel for the parties one copy of the transcript;

THAT the parties have 21 days from the date of this notice in which to file any objection to the transcription;

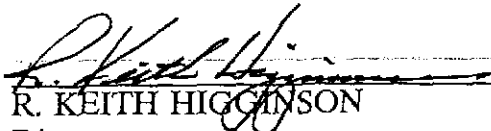
THAT any objections to the transcript shall be made in writing to the Department and shall be determined thereby;

THAT upon failure of the parties to file any objection within such 21-day period, the transcript shall be deemed settled; and,

THAT within seven (7) days of the settlement of the transcript, the Department shall file with the district court to which appeal has been made the original of the transcript together with a copy of the agency record and all exhibits offered or admitted in the proceeding.

APR 13 1995

DATED this 3rd day of September, 1993.


R. KEITH HIGGINSON
Director

CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the following described document on the persons listed below by mailing in the United States mail, first class, with the correct postage affixed thereto on the 3rd day of September, 1993.

Documents served: NOTICE OF LODGING OF TRANSCRIPT
TRANSCRIPT

Persons served: Roger D. Ling
LING, NIELSEN & ROBINSON
P. O. Box 396
Rupert, ID 83350

William A. Parsons
PARSONS, SMITH, STONE & FLETCHER
P. O. BOX 910
Burley, ID 83318


RITA I. FLECK
Legal Secretary
Idaho Department of Water Resources



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

September 2, 1993

William A. Parsons
PARSONS, SMITH, STONE & FLETCHER
P. O. Box 910
Burley, ID 83318

Dear Mr. Parsons:

Re: Darrington v. Farley, et al.
Cassia County Case No. SP-93-00103

Enclosed is a copy of the billing from Northwest Transcripts. This is the service the department uses for transcribing our tapes. Note that the final cost is \$194.00. Since you have already paid a \$100.00, the balance is \$94.00.

Please remit this amount soon.

Sincerely,

A handwritten signature in cursive script that reads "Rita I. Fleck".

RITA I. FLECK
Legal Secretary

Enc.

APR 18 1995

NORTHWEST TRANSCRIPTS, INC.

CALIFORNIA DIVISION
LOS ANGELES
(818) 574-1075

P.O. BOX 890
Nampa, IDAHO 83653-0890
(208) 466-2743

NEVADA DIVISION
LAS VEGAS
(702) 658-9626

FEDERALLY CERTIFIED TRANSCRIPTION SERVICE

GAYLE M. LUTZ, OWNER/MANAGER

August 23, 1993

Department of Water Resources
1301 N. Orchard Street, Statehouse Mail
Boise, Idaho 83720-9000

RE: OUR FILE # : 9301-0212
DOCKET # : SP-93-00103
PROCEEDING DATE:

EIN NUMBER 82-0423588

☐ Criminal ☐ Civil Date Ordered Date Mailed
☐ Bankruptcy ☒ Other 08/03/93 08/23/93

GOVERNMENT RATE: ORDINARY

PAGES	CASE NAME	PRICE PER PAGE	TOTAL CHARGES
97	Darrington v. Farley	\$ 2.00	\$ 194.00
	DEPOSIT		0.00
	BALANCE		194.00
	MAILING FEE		0.00
	TOTAL DUE		194.00
DUE UPON RECEIPT TOTAL DUE			\$ 194.00

I CERTIFY THAT THE TRANSCRIPT FEES CHARGED AND PAGE FORMAT USED
COMPLY WITH THE REQUIREMENTS OF THIS COURT AND THE JUDICIAL
CONFERENCE OF THE UNITED STATES.

Signature *Elise B. Hodge* Date 08/23/93

RECEIVED

MAR 16 1993

Department of Water Resources

PARSONS, SMITH, STONE & FLETCHER
137 West 13th Street
P.O. Box 910
Burley, Idaho 83318
(208) 678-8382
Attorneys for Plaintiffs

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CASSIA

IN THE MATTER OF THE APPLICATION)
FOR PERMIT NO. 43-07318 IN THE)
NAME OF RANDALL JAY FARLEY and)
LINDA DIANE FARLEY.)

Case No. _____

IVAN DARRINGTON,
Protestant and
Petitioner,

PETITION FOR REVIEW OF
THE ADMINISTRATIVE ORDER
OF THE DEPARTMENT OF WATER
RESOURCES.

vs.

Fee Cat. G
Fee \$58.00

RANDALL JAY FARLEY and LINDA
DIANE FARLEY,

Applicants and
Respondents.

COMES NOW, IVAN DARRINGTON, the Petitioner, and
requests review, pursuant to Idaho Code § 42-1701 A and 67-
5215, of the Memorandum Decision and Order of the Department of

1 Water Resources, preliminarily dated February 8, 1993.

2 The decision was issued pursuant to a contested hearing in
3 Burley, Idaho, before a Department appointed Hearing Officer and
4 based upon the Findings of Fact, Conclusions and recommendations
5 of the Hearing Officer.

6 Thirty (30) days have not elapsed since the final
7 decision of the Department dated February 26, 1993 and served on
8 March 2, 1993.

9 The ground upon which this review and relief from said
10 Order is sought are as follows:

11 1. Findings and Fact of Conclusions of Law contained
12 in the decision are erroneous in view of the reliable, probative
13 and substantial evidence in the record.

14 2. The Order is contrary to established law and
15 precedent of the Department of Water Resources.

16 3. The actions of the Department were arbitrary and
17 unjustified, under the facts of the case and were characterized
18 by an abuse of discretion.

19 4. The decision was contrary to private contracts.

20 5. Substantial and private rights of Petition, Ivan
21 Darrington, have been unjustly and serious prejudiced as a
22 result of the administrative findings of the Department and the
23 inferences and conclusions flowing therefrom.

24 6. That the decision recognizes rights and issues that
25 must be determined in some proceeding other than the application
26 by Farley.

1 7. Another action is pending between the parties in
2 the District Court of the Fifth Judicial District of the State
3 of Idaho, in and for the County of Cassia, being Civil Case 92-
4 778 entitled "Edsil Ivan Darrington and Barbara Darrington,
5 husband and wife, Plaintiffs, vs. Randall Jay Farley and Linda
6 Diane Farley, Defendants."

7 WHEREFORE, Petitioner prays:

8 1. An order be granted herein for judicial review of
9 the Final Memorandum Decision of the Department of Water
10 Resources which is above referenced.

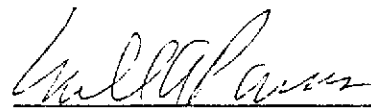
11 2. The review include presentation of written briefs
12 and oral argument as well as presentation of additional proof as
13 appropriate after examination of the record.

14 3. That the issues be joined with the pending action
15 in the Fifth District Court of the State of Idaho, in and for
16 the County of Cassia.

17 4. That an order be granted following such review
18 vacating and setting aside the Order of the Department and
19 restraining the Department from enforcing the order and awarding
20 such other relief as may seem just and appropriate to the court.

21 DATED this 15 day of March, 1993.

22 PARSONS, SMITH, STONE & FLETCHER

23 
24 _____
25 William A. Parsons
26 Attorneys for Petitioner
 137 West 13th Street
 P. O. Box 910
 Burley, Idaho 83318

CERTIFICATE OF MAILING

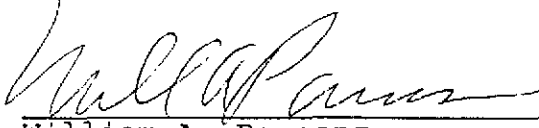
I hereby certify that on the 15 day of March, 1993,
I served a copy of the foregoing Petition upon the following:

Roger D. Ling
Ling, Nielsen & Robinson
Box 396
Rupert, Idaho 83350

State of Idaho
Department of Water Resources
1301 North Orchard Street
State House Mail
Boise, Idaho 83720-9000

by depositing a copy thereof in the United States mail, postage
prepaid, in an envelope addressed to the above named persons at
the above addresses, their last known address.

PARSONS, SMITH, STONE & FLETCHER


William A. Parsons
Attorneys for Petitioner
137 West 13th Street
P. O. Box 910
Burley, Idaho 83318

APR 19 1993

ROUTING SHEET FOR PROTESTED APPLICATIONS
WHICH REQUIRE A MEMORANDUM DECISION AND ORDER

Date

Activity

1 2/26/93

HEARING HELD

FILE RECEIVED AT STATE OFFICE (Cindy)

- Date stamp, label and add file to bar code system
- Attach temporary file from protest drawer
- Route to Brenda for general review

GENERAL APPLICATION REVIEW (Brenda)

- Create "P" file and edit per general review
- Route file to Karen

*order
prepared
By Western
Region*

2/26/93

monitors

PREPARE PMD&O (Karen & Hearing officer)

- Log in for tracking through the decision process
- Route file for review of the decision
- Prepare order issuing PMD&O and certificate of mailing, route for signature and mail
- Hold file for 15 days - for exceptions

PREPARE FINAL ORDER (Karen)

- Prepare order adopting PMD&O as the final order or make needed changes to PMD&O and prepare final order
- Route final order for signature
- Route to Brenda for final permit processing

3-2-93

FINAL PERMIT PROCESSING (Brenda)

- Edit and condition "P" file per signed MDO
- Update data base and prepare APPROPRIATE permit document (Use signature stamp on permit).
- Drop "P" from temporary file
- Route to Karen for final order processing

3/2/93

APR 13 1993

PREPARE FINAL ORDER (Karen)

- Route to Karen for final order processing
- Prepare cover letter and certif. of mailing
- Mail the final MD&O
- Send file to microfilm

APR 13 1993

MICROFILM

- Film the file
- Route file to vault

VAULT

- Remove out-cards from the protest drawer and hold drawer



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

March 2, 1993

Re: In the Matter of Application for Permit No. 43-07318
in the name of Randall Jay and Linda Diane Farley

Dear Permit Holder:

Enclosed is a copy of the Final Memorandum Decision and
Order issued in reference to the above mentioned permit.

Any person who does not agree with the decision of the
department may request a rehearing before the Director
within 20 days, or may appeal directly to the district
court within 30 days of the date the decision is mailed.

If you have any questions concerning this matter, please
feel free to contact this office.

Sincerely,

L. GLEN SAXTON
Chief, Water Allocation Bureau

Enc: Final Order
Certificate of Mailing
Copy of Approved Permit

APR 13 1993

APPLICATION FOR PERMIT REVIEW

Application #: 44-0000 Date: 1/1/88 Reviewer: Brenda Miller

SYSTEM COMPLETED:

- No - 26A-P17
- Complete in 1 year - P16
- Yes
- Proof not submitted - P16
- Proof submitted - N/A

AREA OF CONCERN? 1/1/88

GROUNDWATER:

- GT. 0.2 cfs <flo-ch> - 01G-P03, 01C-P03 (existing well)
- No measurement required <flow chart>
- LT. 0.2 cfs - No measurement required <flow chart>

Drilling Permit:

- Approved w/permit - P99 Permit No.
- Not included - 046-46A-46B-P23 (after 7/1/87), N/A

SURFACE WATER: not in w/d - 01C-P03 (=GT.2 w/pump), NMR <flow chart>

LOCATION:

- Water Districts - WD No.
- Surface water - R04, R04-01H-P01(LT.2 w/pump)
- R04-01J-P08(GT.2), NMR <flow chart>
- Groundwater - P05
- Irrigation Districts - 023
- Canal Co. Areas - 023
- Drainage Districts - 024
- Boise Front (63) - 058 (Groundwater)
- Swan Falls Flag - 1 (1, Blank or Other)
- Trust - 051-052-053-P74 (Consumptive Uses)
- Non Trust <1> - 048-049

RIVER BASINS:

- (Surface Water) Water District Control Condition &....
- Boise (63) - 05A & 11E
- Payette (65) - 047-P04, 059-P71
- SNAKE (01, 02 & 03) - 11A-P04(01), 061-P07(02/03 No W.D.Cond.)

USE:

- Fish Propagation - 06A, 09E-P10 & 010 (WQ/Choose One),
- 042(req.), 002-P06(MD), 07A(Spec.),
- 044(Policy 5G)
- Power - Use Power Review
- Mining - 06A, 010, or 09E-P10 & 054(req.)
- Storage - 18A-for multiple measuring devices(In WD),
- 18B-P09(Size)
- Rec/Wildlf/Aes - 027(Non-Consumptive)
- Domestic - 021 (Boise River - upstream from L Peak)
- (restricted areas) 27A (Payette River & main tributaries)

OWNERSHIP:

- Non land owner - 004

PROTESTED:

- Agreement - 020

Beneficial Use Due Date -

Other Conditions/Remarks: -

February 10, 1993

Linda Farley
HC 72
Malta, ID 83342

RE: Permit No. 43-07318

Dear Mrs. Farley:

Per your request to the Department, enclosed is a copy of the hearing tape for the hearing held in connection with the above referenced permit.

Also enclosed is a copy of the receipt indicating the total charges to be \$5.99. Since the Department has already paid for the copy, please remit \$5.99 to the Idaho Department of Water Resources as soon as possible.

If you have any questions or if I can be of any further assistance, please feel free to contact me.

Sincerely,

Karen L. Gustafson
Secretary/Records Manager

Enclosure

RECEIVED
APR 13 1993

124541

1910 University Dr. - Boise, Idaho 83725-1225
Phone (208) 385-1559

SPECIAL
ORDER NO.

DATE _____

19 93

Name _____

Address

Sold by	Cash	Charge	Other
---------	------	--------	-------

Change	\$
From	

QUAN,

DESCRIPTION

PRICE**AMOUNT**

5th

Duration 120min Cassette

599

Karen Gustafsen

John Doe

TAX

5102

Rec'd.
By

By TANET GARRETT

TOTAL

599

124541

ALL CLAIMS AND RETURNED GOODS MUST BE ACCOMPANIED BY THIS BILL

PHONE ORDERS (208) 385-1410

RECEIVED

FEB 8 1993

Department of Water Resources

Dear Mr Saxton,

I am writing in regard to obtaining a copy of our hearing tape, the date was Tues Jan. 26th. If it is possible I would like a copy that we could play on a regular recorder. However, if that is not possible we will make other arrangements to listen to it and would still like a tape sent. Thank you very much - I will gladly reimburse any expense.

Sincerely,
Mrs Farley

Randall J. Farley
Linda D. Farley

42-7318

2/9/93 - Tape to Pearl Smith for a copy

APR 13 1993



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

February 8, 1993

Dear Interested Party:

Enclosed are copies of the Proposed Memorandum Decision and Order and the Order Issuing the Proposed Memorandum Decision and Order.

Any party who appeared at the hearing is given the opportunity to file exceptions or briefs, or to request oral arguments within 15 days of the date of this mailing. At the end of that time, the director will issue his final decision adopting, modifying, rejecting or replacing the proposed decision. Copies of that decision and order shall also be mailed to all parties.

If you have any questions concerning this matter, please feel free to contact this office.

Sincerely,

A handwritten signature in cursive script that reads 'L. Glen Saxton'.

L. Glen Saxton
Chief, Water Allocation Bureau

Enc: Proposed Memorandum Decision and Order
Order Issuing Proposed Memorandum Decision and Order
Certificate of Mailing

RECEIVED
FEB 13 1993

FEB 13 1993

MEMORANDUM

TO: FILE 47-007318

FROM: GEORGE AUSTIGUY *GEA*

RE: GENERAL REVIEW OF HEATING USE REQUIREMENTS

DATE: 02/02/93

RATE OF FLOW AND ANNUAL VOLUME FOR HEATING USE

GIVEN:

Geothermal Source Temperature	=	120 Degrees
Area of Floor Space	=	2500 Square Feet
Temperature Outside	=	-10 Degrees
Temperature Inside	=	70 Degrees
Building Efficiency	=	0.67 *
Temperature Required	=	72 Degrees
Days per year temp below 70 Degrees	=	270 Days
Hours per day temp below 70 Degrees	=	12 Hours

CALCULATIONS:

Single Floor System Heat Load =	=	134,000 btu/hr
Two Floor System Heat Load		107,200 btu/hr
Temp. Drop Across System	=	14.4 deg

FLOW RATE;

Single Floor Flow Rate	=	19 gpm
	=	0.04 cfs

Two Floor Flow Rate		15 gpm
		0.03 cfs

VOLUME;

Single Floor Annual Volume	=	11.1 Acre feet
Two Floor Annual Volume		8.9 Acre-feet Acre feet

MISCELLANEOUS INFORMATION:

* 0.28 Best energy efficiency **
0.44 Good energy efficiency
0.67 Average energy efficiency
1.11 Poor energy efficiency

SEARCHED
SERIALIZED
INDEXED
FILED

APR 18 1993

MEMORANDUM

TO: FILE 47-007318

FROM: GEORGE AUSTIGUY *GIA*

RE: GENERAL REVIEW OF HEATING USE REQUIREMENTS

DATE: 02/02/93

RATE OF FLOW AND ANNUAL VOLUME FOR HEATING USE

GIVEN:

Geothermal Source Temperature	=	140 Degrees
Area of Floor Space	=	2500 Square Feet
Temperature Outside	=	-10 Degrees
Temperature Inside	=	70 Degrees
Building Efficiency	=	0.67 *
Temperature Required	=	72 Degrees
Days per year temp below 70 Degrees	=	270 Days
Hours per day temp below 70 Degrees	=	12 Hours

CALCULATIONS:

Single Floor System Heat Load =	=	134,000 btu/hr
Two Floor System Heat Load	=	107,200 btu/hr
Temp. Drop Across System	=	20.4 deg

FLOW RATE;

Single Floor Flow Rate	=	13 gpm
	=	0.03 cfs
Two Floor Flow Rate	=	11 gpm
	=	0.02 cfs

VOLUME;

Single Floor Annual Volume	=	7.8 Acre feet
Two Floor Annual Volume	=	6.3 Acre-feet Acre feet

MISCELLANEOUS INFORMATION:

* 0.28 Best energy efficiency **
0.44 Good energy efficiency
0.67 Average energy efficiency
1.11 Poor energy efficiency

[Handwritten signature]

FEB 13 1993

Water right number - A43-04098A Prefix Translation: ADJUDICATION CLAIM

Twn	Rng	Sec	Tract	Lot	Acres	Place of Use	Description	County
15S	26E	23	SW NE		22	HEATING		(31) CASSIA
15S	26E	23	SW NE		43	DOMESTIC		(31) CASSIA

+ - - - - Diversion Means - WELL 430' DEEP, 12" CASING-ARTESIAN, DITCH TO POND-PUMP FROM POND

+ - - - - Non-Irrigation Use - DOMESTIC, 1 HOME & GARDEN; HEATING, 1 HOME

+ - - - - Other Rights for Same Use - NONE

+ - - - - Remarks - - - - - NOTE THE DOMESTIC USE WITH A PRIORITY DATE FROM 1935 WAS NOT TRANSFERRED TO THE DARRINGTON'S BUT WAS RETAINED BY MRS. CHANK FOR USE IN HER NEW HOME, LOCATED IN THE NW, SE, NW OF SECTION 23.
CHANGE OF OWNER 5-10-1991 SCC.

+ - - - - A4304098 - - - - - Old Water Right Numbers - - - - -

+ - - - - Conditions of Approval - - - - - No Conditions of Approval found.

+ - - - - Decree Plaintiff - - - - - + - - - - Decree Defendant - - - - - + - - - - Decree Date - - - - - 00/00/0000

+ - - - - Audit Fields - 06/07/89 BAUMHOFF 05/10/91 CLELLAND 02/03/92 CLELLAND

+ - - - - -Comments- - - - - No Comments Found

Court Report Filing		Field Inspection Made		Adjudication Rights Dates and Flags Area		Civil Case Number	
Objection Filed Date	- 00/00/0000	Field Inspection Flag	- 00/00/0000	Civil Case Number	- 39576	Old Case Number	-
Response Filed Date	- 00/00/0000	Verified Date	- 00/00/0000	Old Judicial District	-	Temporary Right	- P
Claim Received Date	- 02/03/1992	Last Amended Date	- 02/03/1992	Water District	-	Federal/State Indicator	- S
Proof Due Date	- 00/00/0000	Proof Made Date	- 00/00/0000	Presumption Flag	-	Notice of Error Flag	-
Licensed Date	- 00/00/0000	Receipt Number	- C007289				
Claims Tape Error Flg	-	POU Ownership Flag	- Y				
Fee Exempt Flag	-	Name Connector	- AND/OR				

1994

Water Right Number - A43-02283

Prefix Translation: ADJUDICATION CLAIM

Old (D) Number - 19094

*** C - CURRENT OWNER ***
DARRINGTON

IVAN

1 - BOX 136
2 -
3 -

City- ALMO
Phone - 208-824-5511

State- ID Zip- 83312

Priority Date - +
02/11/1941 17 SOUTHERN

License - +
L - LICENSE

Source - +
GROUNDWATER

Tributary - +

Twn Rng Sec Tract Lot RFlg County Point of Diversion - +
Stream Index (Blank if no Index Code)

15S 26E 23 SE NW (31) CASSIA

Code Description Period From Period To Water Use Diversion Rate Diversion Volume

01 - IRRIGATION

03/15

11/15

0.920

Total Div. Rate - + Total Div. Volume - + Total Div. Capacity - + Total Consumptive Use - + KW Usage - +
0.920 0.0

Twn	Rng	Sec	Tract	Lot	Acres	Place of Use	Code	Description	County
15S	26E	23	SW NE		6.0		01	IRRIGATION	(31) CASSIA
15S	26E	23	SE NE		40.0		01	IRRIGATION	(31) CASSIA

Total Acres: 46.0

- - - Diversion Means - WELL, PUMP, SPRINKLERS

- - - Non-Irrigation Use -

- - - Other Rights for Same Use - A43-02413

- - - Remarks -
No Remarks found.

- - - Old Water Right Numbers -
No Old Water Right Numbers found.

- - - Conditions of Approval -
No Conditions of Approval found.

- - - Decree Plaintiff - + Decree Defendant - - +

+ - Decree Date - +
00/00/0000

APR 13 1993

- ROSTER OF ATTENDANCE -

RE: Application for Permit No. 43-07318 - Randall Farley

Date: January 26, 1993 (Tuesday) - 9:30 a.m.

Place: Burley City Hall Council Meeting Room, 1401 Overland Ave.
Burley

	Name	Address	Representing
1.	Ivan Darrington	Box 136 Almo Idaho	Self
2.	Roger D. Ling	P.O. Box 396 Rupert, Id 83350	Applicants
3.	Linda Diane Farley		
4.	Randall Jay Farley	HC 72 MALTA 10 83342	
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12.			
13.			

APR 19 1993

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3 and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece next to the article number.

3. Article Addressed to: 43-7318

IVAN DARRINGTON

PO BOX 136

ALMO ID 83312

4b. Service Type

☐ Registered ☐ Insured☒ Certified ☐ COD☐ Express Mail ☐ Return Receipt for Merchandise

APR 13 1993

7. Date of Delivery

JAN 25 1993

5. Signature (Addressee)

Ivan Darrington

6. Signature (Agent)

Charles Decker

PS Form 3811, October 1990

★ U.S. GPO: 1990-273-961

Department of Water Resources
DOMESTIC RETURN RECEIPT
Southern Region Office

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

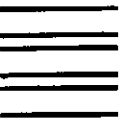
Consult postmaster for fee.

4a. Article Number

1374

United States Postal Service

Official Business



APR 13 1993



PENALTY FOR PRIVATE
USE, \$300

Print your name, address and ZIP Code here

IDAHO DEPT. OF WATER RESOURCES
SOUTHERN REGION
222 Shoshone Street East
Twin Falls, ID 83301

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3 and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece next to the article number.

3. Article Addressed to: 43-7318

RANDALL JAY &/or LINDA FARLEY
HC 72
MALTA ID 83342*Randall Farley* JAN 13 1993

5. Signature (Addressee)

6. Signature (Agent)

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery
Consult postmaster for fee.

4a. Article Number

1373

4b. Service Type

- ☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail ☐ Return Receipt for Merchandise

7. Date of Delivery

RECEIVED

8. Addressee's Address (Only if requested and fee is paid)

JAN 22 1993

Department of Water Resources
DOMESTIC RETURN RECEIPT
Southern Region Office

United States Postal Service

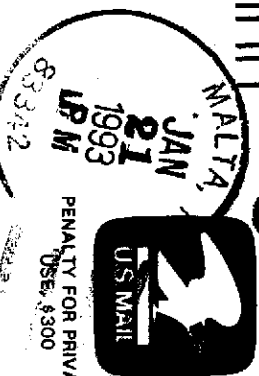
Official Business



Print your name, address and ZIP Code here.

APR 13 1993

IDAHO DEPT. OF WATER RESOURCES
SOUTHERN REGION
222 Shoshone Street East
Twin Falls, ID 83301



Line	Number of Article	Name of Addressee, Street, and Post-Office Address	Indicate type of mail			Check appropriate block for			POSTMARK AND DATE OF RECEIPT								
			Registered	Insured	C.O.D.	Express Mail	Registered Mail	With Postal Insurance	Without Postal Insurance	Postage	Fee	Handling Charge (if Regs.)	Insured Value	Due Sender if C.O.D.	R. R. Fee	S. D. Fee	S. H. Fee
1	1363	William Wankier															
2	1364 (4)	Trinity J. Ryan 10 Yuma St. #554 H 10/2/92															
3	1365	Jane/Sandra Fridge Big Wood Canal Rd. Richard (David, Mgr.) Turner of Big Wood River Doug Barry, VP															
4	1366	Ken Walker Building violation # 37-5-691 TB 10/28/92															
5	1367 (3)	Lee Peterson, Wm (W.D. #37) (working)															
6	70000	CPED Johnson															
7	1368 ✓	Randall Gay/Linda Farley 11/9/92/24 43-7318															
8	1369	12-12-92 Gary Walker (See #1092) 43-7318															
9	1370	12-12-92 Randall Farley 43-7318															
10	1371	12-12-92 1.00 1.00 2.25															
11	1372 ✓	12-12-92 1.00 1.00 2.25															
12	1373 ✓	12-12-92 1.00 1.00 2.25															
13	1374 ✓	12-12-92 1.00 1.00 2.25															
14	Non-Cert	Roger Young, Hwy															
15																	

FORM MUST BE COMPLETED BY TYPEWRITER, INK OR BALL POINT PEN

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR PERMIT TO APPROPRIATE)
WATER NO. 43-07318)

Randall J. Farley and/or)
Linda Diane Farley,)
Applicants)

Ivan Darrington,)
Protestant)

NOTICE OF HEARING

SOURCE: Groundwater
(Artesian well)

COUNTY: Cassia

On May 4, 1992, Randall Jay & Diane Farley, applicants, applied to the Department of Water Resources to appropriate the public waters of the State of Idaho. On June 22, 1992, the Department received a protest against the approval of said application from Ivan Darrington.

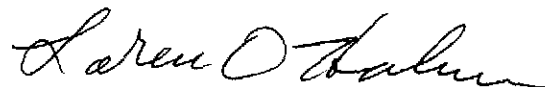
On November 24, 1992, a pre-hearing conference was held.

The Department has set the matter of protest for hearing for Tuesday, January 26, 1993, at 9:30 AM, in the Burley City Hall council meeting room, 1401 Overland Ave., Burley.

The hearing will be held in accordance with chapter 2, Title 42 of the Idaho Code and the adopted Rules of Practice and Procedure of the Department of Water Resources. Opportunity shall be afforded to all parties to respond and present evidence and argument on all issues involved.

If you require special accommodations for a disability in order to participate in or attend the hearing please advise the department within ten (10) days prior to the meeting.

Dated this 15 day of January, 1993.



Loren O. Holmes
Southern Region Manager

1993 JAN 23



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS
Governor

15-Jan-1993

R. KEITH HIGGINSON
Director

IVAN DARRINGTON
PO BOX 136
ALMO ID 83312

Re: Application 43-07318

Dear Mr. Darrington:

Enclosed is a notice of hearing in this matter.

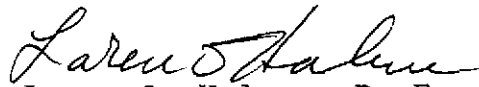
The department has inspected and documented certain features of this water system in connection with the Snake River Basin Adjudication and placed the information in our files.

Since this information may be useful in developing the hearing record in this matter, we plan to take official notice of the documents in this hearing.

Copies of the material are attached.

If you have any questions, please contact this office.

Sincerely,


Loren O. Holmes, P. E.
Southern Region Manager

APR 1 1993
APR 1 1993



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS
Governor

15-Jan-1993

R. KEITH HIGGINSON
Director

RANDALL JAY AND/OR LINDA D FARLEY
HC 72
MALTA ID 83342

Re: Application 43-07318

Dear Mr. and Mrs. Farley:

Enclosed is a notice of hearing in this matter.

The department has inspected and documented certain features of this water system in connection with the Snake River Basin Adjudication and placed the information in our files.

Since this information may be useful in developing the hearing record in this matter, we plan to take official notice of the documents in this hearing.

Copies of the material are attached.

If you have any questions, please contact this office.

Sincerely,

A handwritten signature in cursive script, reading 'Loren O. Holmes'.

Loren O. Holmes, P. E.
Southern Region Manager

C: Roger Ling

RECEIVED
JAN 20 1993

APR 18 1993



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS
Governor

05-Jan-1993

R. KEITH HIGGINSON
Director

IVAN DARRINGTON
PO BOX 136
ALMO ID 83312

Re: Application 43-07318

Dear Mr. Darrington:

I tentatively plan to schedule this application for hearing on Tuesday, January 26, 1993 at 9:30 AM in Burley.

Formal notices will be sent by certified mail about January 15.

If there is a conflict, please let me know as soon as possible.

Sincerely,

A handwritten signature in cursive script that reads "Loren O. Holmes".

Loren O. Holmes, P. E.
Southern Region Manager

FILED
JAN 28 1993



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS
Governor

05-Jan-1993

R. KEITH HIGGINSON
Director

RANDALL JAY AND/OR LINDA D FARLEY
HC 72
MALTA ID 83342

Re: Application 43-07318

Dear Mr. and Mrs. Farley:

I tentatively plan to schedule this application for hearing on Tuesday, January 26, 1993 at 9:30 AM in Burley.

Formal notices will be sent by certified mail about January 15.

If there is a conflict, please let me know as soon as possible.

Sincerely,

A handwritten signature in cursive script, reading "Loren O. Holmes".

Loren O. Holmes, P. E.
Southern Region Manager

C: Roger Ling

APR 19 1993

MEMORANDUM

DATE: 11-Dec-1992

FROM: Loren Holmes

TO: File 43-07318

SUBJECT: Pre-hearing conference outcome

A pre-hearing conference was held on Nov. 24, 1992 in Burley.

Ivan Darrington called me on the the previous day to say that he was snowed in and would not attend the conference, so the only parties present were the Farleys and their attorney, Roger Ling.

There is currently litigation between Darrington and the Farleys to settle questions of ownership of rights in the well and to interpret an agreement between Darrington and the Farley's predecessor, Harriet Crank. The suit has not gone to trial, and it is expected that the venue will change to the SRBA court.

The well is an old flowing artesian well drilled possibly in the 1920s. The well is on BLM land and is locally known as Bridge Spring. Darrington claims a right to .92 cfs in the well under A43-02283 and Farleys claim .08 cfs under A43-04098A.

The Farleys proposal is to divert water at the well and pipe it directly to the house for use. Water is currently diverted under right A43-04098A downstream from the well at a point near the house. Temperature at the well is 190 deg. F but cools to about 110 deg by the time it gets to the house. Diversion at the well will increase usability of the water for heating purposes.

The Farleys had the impression that this application was merely a formality to speed the process of gaining an easement from BLM. After discussion of the project with them, I told them I thought the application was necessary to appropriate additional water for the more extensive uses they propose.

The Farleys indicated they would be ready for hearing in January, 1993.

APR 13 1953

To Loren
Date 11-23-92

~~Time~~ 3:24 P.M. ^{A.M.}

WHILE YOU WERE OUT

Ivan Darrington

of _____

Phone 824-5511

AREA CODE

NUMBER

EXTENSION

Telephoned	☒	Please call	☒
Called to see you	☐	Will call again	☐
Wants to see you	☐	Returned your call	☐

Message is snowed in and
may not be able to
make the 10:00 am meeting
11-24-92

Signed PS

SENDER:

1 and/or 2 for additional services.

- Complete item 1 and 4a & b.
- Complete item 2 and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece next to the article number.

3. Article Addressed to:

RANDALL JAY & /OR DIANE FARLEY
HC 72
MALTA ID 83342
Department of Water Resources
Northern Region
APR 16 1993

43-7318

4a. Article Number 1370

- 4b. Service Type
- ☒ Registered
 - ☐ Insured
 - ☒ Certified
 - ☐ COD
 - ☐ Express Mail
 - ☐ Return Receipt for Merchandise

Date of Delivery

11-12-92

5. Signature (Addressee)

Diandra Curcio

APR 13 1993

6. Signature (Agent)

I wish to receive the following services (for an extra fee):

- 1. ☐ Addressee's Address
- 2. ☐ Restricted Delivery

Consult postmaster for fee.

8. Addressee's Address (Only if requested and fee is paid)

DOMESTIC RETURN RECEIPT

PS Form 3811, October 1990

*U.S. GPO: 1980-273-851

United States Postal Service

Official Business

APR 13 1993

NOV 12 1992 PM



PENALTY FOR PRIVATE
USE, \$300

Print your name, address and ZIP Code here

IDAHO DEPT. OF WATER RESOURCES
SOUTHWEST REGION
222 Shoshone Street East
Twin Falls, ID 83301

SENDER:Complete item ☐ and/or 2 for additional services.

- Complete item ☐ 3, and 4a & b.
- Complete item name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece next to the article number.

3. Article Addressed to:

IVAN DARRINGTON
PO BOX 136
ALMO ID 83312

NOV 10 1993

Department of Water Resources
Southern Region Office
APR 13 1993

5. Signature (Addressee)

Ivan Darrington
Barbara Darrington

6. Signature (Agent)

I wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

4a. Article Number

1371

Service Type

☒ Registered☐ Insured☐ COD☐ Return Receipt for Merchandise☐ Certified☐ Express Mail

7. Date of Delivery

8. Addressee's Address (Only if requested and fee is paid)

DOMESTIC RETURN RECEIPT

PS Form 3811, October 1990

*U.S. GPO: 1990-273-861

United States Postal Service

Official Business



APR 13 1993

PENALTY FOR PRIVATE
USE, \$300



Print your name, address and ZIP Code here

~~IDAHO DEPT. OF~~ WATER RESOURCES
~~SOUTHERN REGION~~
222 Shoshone Street East
Twin Falls, ID 83301

NAME AND ADDRESS OF SENDER

Indicate type of mail:
☐ Registered
☐ Insured
☐ COD
☐ Certified
☐ Express Mail

Check appropriate block for Registered Mail:
☐ With Postal Insurance
☐ Without Postal Insurance

Affix stamp here if its certificate of mailing or additional copies of the POSTMARK AND DA

Line	Number of Article	Name of Addressee, Street, and Post-Office Address	Postage	Fee	Handling Charge	Act. Value (If Regis.)	Insured Value	Due Sender If C.O.D.	R. R. S. Fee
1	1363	Weldon Wankier	.29	1.00	1.00	2.29			
2	1364	Timothy J. Ryan 109 New York St. / 10/2/92							
3	1365	James Sandra Figge Big Wood Canal Co. 37-8760	.29	1.00	1.00	2.29			
4	1366	Richard Onidow, Mgr. Friends of Big Wood River							
5	1367	Daig Breary, V.P.							
6	Non Cert	Lee Peterson, Wm (WD #37) (working)							
7	1368	Ken Kallmer Drilling Violation # 37-5-691 TB 10/28/92	.29	1.00	1.00	2.29			
8	1369	Carol Johnson	.29	1.00	1.00	2.29			
9	1370	Randall Jay/Linda Farley 11/9/92/FFH	.29	1.00	1.00	2.29			
10	1371	Irvin Livingston							
11									
12									
13									
14									
15									
Total Number of Pieces Listed by Sender		Total Number of Pieces Received at Post Office	POSTMASTER, PER (Name of receiving employee)		The full declaration of value is required on all domestic and The maximum indemnity payable for nonnegotiable document reconstruction insurance is \$50,000 per piece subject occurrence. The maximum indemnity payable on Express Mail \$500. The maximum indemnity payable is \$25,000 for Registered parcels. Special handling charges apply only parcels. Special delivery service also includes special handling se				

FOR REGISTERED, INSURED, C.O.D., CERTIFIED, AND EXPRESS MAIL

PS Form 3877, Feb. 1982

FORM MUST BE COMPLETED BY TYPEWRITER, INK OR BALL POINT PEN

U.S. GOVERNMENT PRINTING OFFICE

APR 13 1993

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR PERMIT TO APPROPRIATE)
WATER NO. 43-07318)

NOTICE OF
PRE-HEARING CONFERENCE

Randall J. Farley &
Diane Farley,

SOURCE: Groundwater
(Artesian Well)

Applicants

COUNTY: Cassia

Ivan Darrington,

Protestant

On May 4, 1992, Randall Jay & Diane Farley, applicants, applied to the Department of Water Resources to appropriate the public waters of the State of Idaho. On June 22, 1992, the Department received a protest against the approval of said application from Ivan Darrington.

The Department has set the matter of protest for conference for Tuesday, November 24, 1992, at 10:00 AM, in the Burley City Hall council meeting room, 1401 Overland Ave., Burley.

The purpose of the conference is to formulate and simplify the issues, obtain admissions of fact and of documents which will avoid unnecessary proof, arrange for the exchange of proposed exhibits or prepared expert testimony prior to the hearing, limit the number of witnesses, consolidate the examination of witnesses, and advise the parties of the procedure which will be followed at any subsequent hearing.

The conference will be held in accordance with chapter 2, Title 42 of the Idaho Code and the adopted Rules of Practice and Procedure of the Department of Water Resources. Opportunity shall be afforded to all parties to respond and present evidence and argument on all issues involved.

If you require special accommodations for a disability in order to participate in or attend the conference, please advise the department within five (5) days prior to the meeting.

Dated this 9 day of November, 1992.


Loren O. Holmes
Southern Region Manager

APR 18 1993

CONFERENCE AND HEARING PROCEDURE

IN THE MATTER OF A PROTESTED APPLICATION FOR PERMIT

In accordance with IDAHO CODE, Section 42-203, the following issues are involved in the consideration of the application and protest(s):

- 1) Will the proposed use reduce the quantity of water under existing rights?
- 2) Is the proposed water supply insufficient for the purposes intended?
- 3) Is the application made in good faith or for delay or speculative purposes?
- 4) Has the applicant sufficient financial resources with which to complete the proposed project?
- 5) Will the proposed use conflict with the local public interest?
- 6) Is the proposed use contrary to conservation of water resources within the state of Idaho?

BURDEN OF PROOF

The Applicant has the initial burden of proof on issues 1,2,3,4,& 6 above, that is, the applicant has the burden of coming forward with evidence for evaluation of those criteria.

The initial burden of proof on issue 5, local public interest, lies with the both the applicant and protestant as to factors which they are most knowledgeable and cognizant of. The applicant has the ultimate burden of persuasion with respect to this issue.

PROCEDURE

The procedure normally followed by the department in arriving at a decision on the issues which must be considered is to first hold a conference in the matter and then, if necessary, hold a hearing. If a hearing is held a written decision is issued based on the hearing record.

CONFERENCE

Preliminary to holding a hearing, a pre-hearing conference is held to to familiarize the department and the parties with the matter and to determine if a resolution of the protest(s) is possible without the need for a hearing.

At the conference the department may formulate and simplify the issues, obtain admissions of fact and of documents which will avoid unnecessary proof, arrange for the exchange of proposed exhibits or prepared expert testimony prior to the hearing, limit the number of witnesses, consolidate the examination of witnesses, and advise the parties of the procedure which will be followed at any subsequent hearing.

HEARING

Any party may request in writing five (5) days before any hearing that the oral proceedings thereof be taken in the form of stenographic notes at the expense of the requesting party. Any party may have such stenographic notes of the oral proceedings, or part thereof, transcribed at his own expense. A taped record of the proceedings will be maintained for the appeal period.

If the hearing is conducted by a hearing officer appointed by the Director, rather than the Director himself, a proposed decision will be issued and the parties will be afforded the opportunity to file exceptions to the proposed decision and present briefs and oral arguments to the Director prior to the issuance of a final decision by the Director. This procedure is required by IDAHO CODE, Section 42-1701A.

The parties by written stipulation, may waive their right to a proposed decision, however, the failure of either party to waive a proposed decision will not prejudice the director's review of a party's evidence and arguments. However, such a waiver will shorten the decision making process and may expedite substantially the issuance of a final decision. Whether compliance with Section 42-1701A is waived will not affect a party's right to petition for a rehearing of the final decision pursuant to rule 11 of the Department's Rules of Practice and Procedure or affect a party's right to appeal the final decision to the District Court.

Under the provisions of the IDAHO CODE, Sections 42-1701A and 67-5215, any court review of the department's decision on appeal shall be confined to the record created before the department.

EFFECT OF FAILURE TO APPEAR AT A CONFERENCE OR HEARING

Failure to appear at the time and place set for a conference or hearing by the applicant or protestant(s) may allow the department to dismiss without prejudice the protest(s) or the application. Any and all cost incurred by reason of such non-appearance may be assessed against such non-appearing parties.

APR 13 1993



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS
Governor

03-Nov-1992

R. KEITH HIGGINSON
Director

Ivan Darrington
P.O. Box 136
Almo, ID 83312

Re: Application 43-07318, Farley

Dear Mr. Darrington:

I am tentatively planning to schedule a pre-hearing conference on this application for Thursday, November 19, 1992, in the Burley City Hall, Burley.

Formal notices setting the time and place will be mailed about November 6. If you have a conflict with the date, please let me know by November 6.

If you require special accommodations for a disability in order to participate in or attend the conference please advise me prior to formal scheduling.

Sincerely,

Loren O. Holmes, P. E.
Southern Region Manager

NOV 19 1992

92-195
NOTICE OF APPLICATION FOR
WATER RIGHT

The following application(s) have been filed
to appropriate the public waters of the State of
Idaho:

43-07318

FARLEY, RANDALL JAY

FARLEY, LINDA DIANE

HC 72

MALTA, ID 83342

Source: GROUNDWATER

Diversion Pt: SWNWNW Sec 23 T 15S R 26E

in CASSIA County.

Use: HEATING (.220 CFS)

DOMESTIC (.100 CFS)

RECREATION (.220 CFS)

Total Diversion: (.220 CFS)

Date Filed: 5/4/1992

In: CASSIA County

T15S R26E S23 SWNE

The permit(s) will be subject to all prior water
rights. Pretests must be filed with the Direc-
tor, dept. of Water Resources, Southern Region,
222 Shoshone Street East, Twin Falls, ID
83301, on or before JULY 6, 1992.

R. KEITH HIGGINSON

Director

Published in the South Idaho Press June 19
and 20, 1992.

SOUTH IDAHO PRESS

BURLEY, IDAHO

AFFIDAVIT OF PUBLICATION

County of Cassia, }
STATE OF IDAHO } ss.

RECEIVED

JUL 03 1992

Department of Water Resources
Southern Region Office

Moneque Jones being first
duly sworn, deposes and says that She
is the Clerk of the South
Idaho Press, a daily newspaper published
at Burley, Idaho, in the county aforesaid
and that the paper is of general circulation
therein. Deponent further states that the
printed notice attached hereto was duly
published according to law in the regular
editions of The South Idaho Press for two
consecutive weeks, commencing with the
issue dated June 19 19 92, and
ending with the issue dated June 26,
19 92. Moneque Jones

STATE OF IDAHO
COUNTY OF CASSIA }

On this 1 day of July in the year of 1992, before me,
a Notary Public, personally appeared _____,
known or identified to me to be the person whose name subscribed to the
within instrument, and being by me first duly sworn, declared that the
statements therein are true, and acknowledged ~~to me~~ that he executed
the same.

Jeff Solomon
Notary Public for Idaho

Residing at Burley, Idaho

My commission expires: May 23, 1997

Cost of Publication: 29.14
Notary Fee: .50
Total Cost: 29.64

OK
MB
7-8-92

APR 13 1993



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS
Governor

10-Jul-1992

R. KEITH HIGGINSON
Director

RANDALL JAY &/OR LINDA DIANE FARLEY
HC 72
MALTA ID 83342

RE: APPLICATION FOR PERMIT NO. 43-07318

Dear Applicants:

Enclosed is a copy of a protest filed against the above referenced application.

The Department suggests you contact the protestant(s) directly to determine the exact nature of the protest(s) and, if possible, to resolve the matter without action by the Department.

The attachment to this letter describes the issues which the Department must consider in taking action on an application. It also gives a brief description of the conference and hearing procedure followed by the Department in resolving protested applications.

If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

Loren O. Holmes, P.E.
Southern Region Manager

LH:MB
Enclosure(s)

APR 13 1993



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS
Governor

10-Jul-1992

R. KEITH HIGGINSON
Director

IVAN DARRINGTON
PO BOX 136
ALMO ID 83312

RE: APPLICATION FOR PERMIT NO. 43-07318 (Farley)

Dear Mr. Darrington:

Your protest against the approval of the above referenced application has been received and a copy has been sent to the applicant with the suggestion that he contact you directly to determine the exact nature of the protest and, if possible, to resolve the matter without action by the Department.

The attachment to this letter describes the issues which the Department must consider in taking action on an application. It also gives a brief description of the conference and hearing procedure followed by the Department in resolving protested applications.

If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

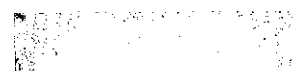
Loren O. Holmes, P.E.
Southern Region Manager

LH:MB
Enclosure(s)

APR 13 1993

Randall Jay &/or Linda Diane Farley
HC 72
Malta, ID 83342

Ivan Darrington
P.O. Box 136
Almo, ID 83312



APR 16 1993

RECEIVED

JUN 22 1992

Department of Water Resources
Southern Region Office

June 22-1992.
1:30 P.M.

Juan Darrington protest
the application for Water Right #43-07318
filed by Randall Jay Harley & Linda Elaine
Harley at HC 72 Watto Idaho 83342
The Source Groundwater is Covered
by Certificate Of Water Right Under
the Name Of Ben V Schmidt and
is On Record in this Office to
be used for irrigation and
domestic in the Amount of
96 OF 8 Second Foot and Entitled
for adjudication under the
License Number found in
the Name Of Juan Darrington
and all Deeds, Licenses, Contracts
and Agreements covering the Sale
Of Land to Water from Ben V Schmidt
to Guy & Lois Creek to Paul Crank
to Harriet Crank to Juan Darrington
are in the Possession Of William
A. Parsons Attorney At Law, Of
Parsons, Smith-Fletcher & Stone
Burke Idaho - He is representing
Me in An Action With these People

Possession 1969

Juan Darrington
Box 136

Idaho 83312

APR 13 1993



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

11-Jun-1992

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

RANDALL JAY &/OR LINDA D FARLEY
HC 72
MALTA ID 83342

Re: Application for Permit No. 43-07318

Dear Applicant (s):

The Department of Water Resources acknowledges receipt of your water right application for permit. The application has been assigned the above referenced identification number. Please refer to this number in all further correspondence.

This office will be advertising the application in the South Idaho Press on 6/19 & 6/26/92. A period of ten days following the second publication will be allowed for the submittal of protests.

If the application is protested you will be sent a copy of the protest. The protest must be resolved before the application is approved or denied. If the protest is not resolved voluntarily, this Department will conduct a conference and/or hearing on the matter.

If the application is not protested, it will be forwarded to our State Office in about five weeks. State office personnel will conduct a complete review prior to final processing of the application and will notify you of the outcome of this review. When a permit is issued, you will be sent a copy. A typical processing time for an unprotested application is about eight weeks.

Please feel free to contact this office if you have any questions regarding this procedure.

Very truly yours,

Mel Schulte
Water Right Agent

APR 13 1993

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Southern Region
222 Shoshone Street East
Twin Falls, ID 83301
(208)736-3033

JUNE 10, 1992

SOUTH IDAHO PRESS
PO BOX 190
BURLEY, ID 83318

Gentlemen:

Enclosed you will find a legal notice which we wish to have published on the dates indicated (once a week for two consecutive weekly issues) in your newspaper. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before JULY 6, 1992.

Yours truly,

Mary Baldwin
Secretary/Office Coordinator

Enclosure

MESSAGE CONFIRMATION
TRANSMISSION

RECEIVED JUL 12 1992 PM 08:16

TERM ID: IDWR SOUTHERN

P-8806

TEL NO.: 1-208-736-3033

APR 13 1993

NO.	DATE	ST. TIME	TOTAL TIME	ABST/SBD	ID	DEPT CODE	#PGS
108	06-13	08:15	00:01:29		0086780413		OK- 1 NG- 0

NOTICE OF APPLICATION FOR WATER RIGHT

The Following application(s) have been filed to appropriate the public waters of the State of Idaho:

43-07318

FARLEY, RANDALL JAY
FARLEY, LINDA DIANE
HC 72
MALTA, ID 83342

Source: GROUNDWATER

Diversion Pt: SWNWNW Sec 23 T 15S R 26E in CASSIA County.

Use: HEATING	(.220 CFS)
DOMESTIC	(.100 CFS)
RECREATION	(.220 CFS)
Total Diversion:	(.220 CFS)

Date Filed: 5/ 4/1992

In: CASSIA County
T15S R26E S23 SWNE

The permit(s) will be subject to all prior water rights. Protests must be filed with the Director, Dept. of Water Resources, Southern Region, 222 Shoshone Street East, Twin Falls, ID 83301 on or before JULY 6, 1992.

R. KEITH HIGGINSON, Director

Published: 6/19/1992 & 6/26/1992

APR 13 1993

Farley

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT ANALYSIS SHEET

INITIAL REVIEW BY MTS DATE 5-5-, 1992
APPLICATION NO. 43-07318

REQUIRED INFORMATION

- ☒ Name (If applicant is a corporation or partnership, names must be provided for the director, officers, & other partners.)
☒ Address
☒ Source (see USGS quad for names of water sources)
☒ Point of diversion (10 Acres for spring, lot & block descriptions for subdivisions, local name, flow &/or volume.)
☒ County
☒ Quantity (flow &/or volume)
☒ Period of use
☒ Nature of proposed use (include description of use)
☒ Description of diverting works.
☒ Time required for beneficial use of water.
☒ Place of use or acres irrigated.
☒ Map
☒ Signature (If applicant is corp., partnership, or municipality, title of signator is required)
☒ Fee
☒ Yes ☐ No* In form to receipt
- ++++PROPOSED PRIORITY DATE
5-4 1992

ADDITIONAL INFORMATION

- ☐ Overlapping place of use(Describe source & relationship to present application on the back.
☐ Overlapping point of diversion.
☐ Yes ☒ No Field check required
Field check by _____
☐ Yes ☒ No Field report attached
☒ Yes ☒ No Critical Ground water area
☐ Yes ☒ No Groundwater management area
☐ Yes ☒ No Send Dam safety information
☐ Yes ☒ No Send power requirement letter
☐ Yes ☒ No Send fish farm requirement letter
☐ Yes ☒ No Power residency affidavit.
☐ Yes ☒ No Power efficiency form
☒ Yes ☐ No Within trustwater boundary(If yes, attach trustwater supplementary analysis sheet.
☐ Yes ☒ No Diversion greater than 5 cfs or 500 acre ft. (If yes, attach large diversion supplementary analysis sheet.
☒ See reverse side for additional information.

* REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT: _____

PROCESSING ☒ Yes ☐ No
☐ Yes ☒ No
☒ Yes ☐ No

In form for Advertising
No Statewide Advertising
Fee amount, receipt date & No. recorded on app.

SEND COPIES TO: ☐ Idaho Dept of Health & Welfare ☐ USDI BLM
☐ Idaho Dept of Fish & Game ☐ USFS
☐ Idaho Dept of Lands ☐ Water Dist.
☐ Adjudication Bureau Unit ☐ Other _____

FINAL REGIONAL PROCESSING REVIEW

☐ Yes ☐ No Affidavit of publication received.
☐ Yes ☐ No Application published correctly. If not, record action taken.

☐ Yes ☐ No Publication dates and paper, recorded on App.
☐ Yes ☐ No Protests received
Final date for Protest _____
☐ Yes ☐ No Protests, dates, resolution of protest, recorded on app.
☐ Yes ☐ No Recommendations attached
☐ Yes ☐ No Measuring device required
☐ Yes ☐ No Access port required
☐ Yes ☐ No Will water be delivered by watermaster? If yes, what dist. _____
☐ Yes ☐ No Special conditions of approval or cover letter below. _____

See below for additional information _____
Date of priority recommended _____, 19____
By _____ Date _____, 19____

STATE OFFICE REVIEW

See below for additional information _____ By _____
Date _____, 19____

ADDITIONAL INFORMATION:

LOCAL PUBLIC INTEREST

Comments recieved from:

_____ City	_____ Idaho Fish & Game	_____ Irrigation Dist.
_____ County	_____ Idaho Health & welfare	_____ Canal Company
_____ Reservations	_____ Div. of Enviromental Quality	_____ Other _____

PROJECT IMPACTS/IMPLICATIONS REPORT

COMMENTS:

_____ DATE _____, 19____

A43-4098 filed for .08 cfs for domestic & heating from same source
A43-10655 filed for .21 cfs for Recreation, Wildlife & Aesthetics from
same source.

43-2283 - is a license for .92 cfs from the same source for In. &
Dom. - the Irrigation component may have forfeited

A cold water well is also used for domestic at
the same P/U

43-2413 - Irrigation license that overlaps part of P/U as this
permit.

FIELD EXAM NOTES

BY: STEVE CLELLAND

DATE: 4-27-92

RE: A43-04098A, A43-10382 & A36-10655

This day I went to examine the system and uses of this hot water well. I met with Mrs. Farley and then followed the ditch + pipeline flows up to the artesian wellhead. There was an old control head valve at the well site where it appears the flows from this well were controlled in the past. The water was at or near boiling point although no measurement was made. The water flows down a ditch and about 50 feet downstream is set a V-notch weir. The weir pool has been filled up with gravels and the weir edges are corroded and have mineral deposits built up. I explained to Mrs. Farley how to upgrade the weir to get a more accurate measurement. They had previously measured $4\frac{1}{2}$ " over the weir. (chart shows this flow is 0.211 cfs.) Downstream from the well, about 600', the screened inlet to a $1\frac{1}{2}$ " black plastic pipe begins and it lays in the bottom of the ditch down to the pond below. Then it is buried underground and comes up in the small greenhouse beside the house on the ~~east~~^{north} side of the pond. The Ditch continues on and empties into the pond. There was another diversion made from the ditch about 20' from the pond. This Diversion was a 6" pvc pipe placed in the side of the Ditch and it belongs to

Ivan Darrington. The Diversion appears to be a brand new development. It does not follow any old diversion ditch channel and although I found some older ditch beds on the site, they all eventually dump back to the pond. Mrs. Diane Farley said this pipe was placed there this spring. No moss or corrosion on the pipe would support that statement.

Mrs. Farley said they laid the $1\frac{1}{2}$ " pipe in the ditch last year. She said prior to their purchase of the property she had been told Harriet Crank used another pipeline from the ditch to her house. Mrs. Crank also used the pond itself for domestic uses.

There is evidence of pipelines all over the place. the pond is about $200' \times 200'$ and has a large Dike at the East end of the pond. There is remains of a culvert used to drain the pond through the Dam but the control device looks unuseable and Mrs. Farley said it does not work at all. The only way to empty the pond is to Divert the incoming flows and evaporate the pond dry.

Below the Dam is an old ditch that hasn't carried water for over 5 years or more. This Ditch runs off through the Farley property. There was a small area below the Dam where sagebrush had been cleared off. Mrs. Farley said this was a garden site for Harriet Crank.

APR 18 1953

At this point, based on the evidence I have seen, this well water has been running into the pond for years. It does not appear to ever overflow. It seems to be well established that Harriet Crank lived at the pond site and this water was her only source of potable water or any type water.

The OPA DD81 is from a photograph taken on August 20, 1976 and this photo shows the water flow from the well to the pond. No flows appear to extend beyond the pond.

The same appears true for the photo taken in 8-8-87, NAPP 389-55, DD81 NE; water flows from the well to the pond.

I measured the water in the $1\frac{1}{2}$ " pipe to the house using the 5 gallon Bucket method. It was consistent at 35 seconds to fill 5 gallons. This calculates out to 0.02 cfs; the same amount claimed in the adjudication under A43-04098A.

The Farley's still need to prove the priority date claimed. Since the Diversion point is the well, changes in their delivery system do not require transfers. (i.e. the addition of the $1\frac{1}{2}$ " pipe in 1991.)

APR 18 1988

I also left an application for permit with Mrs. Farley. They plan to expand their use of the water for more heating of their home. They also plan to access the actual well source and control the flows therein.

PHOTOS BY
4-27-92



SMALL CLEARING DONE
USED FOR IRRIGATION.

← DAM BELOW
← LOOKING DOWN FACE



IRRIGATION DITCH & DRAIN CULVERT
NO LOWGEE IN USE > 5 YRS

TABLEY 443-40984



DAM ABOVE

NOTE: RETENTION
USES FROM
PAST.



STUCK WATER PIPELINE FROM THE
HOUSE SYSTEM



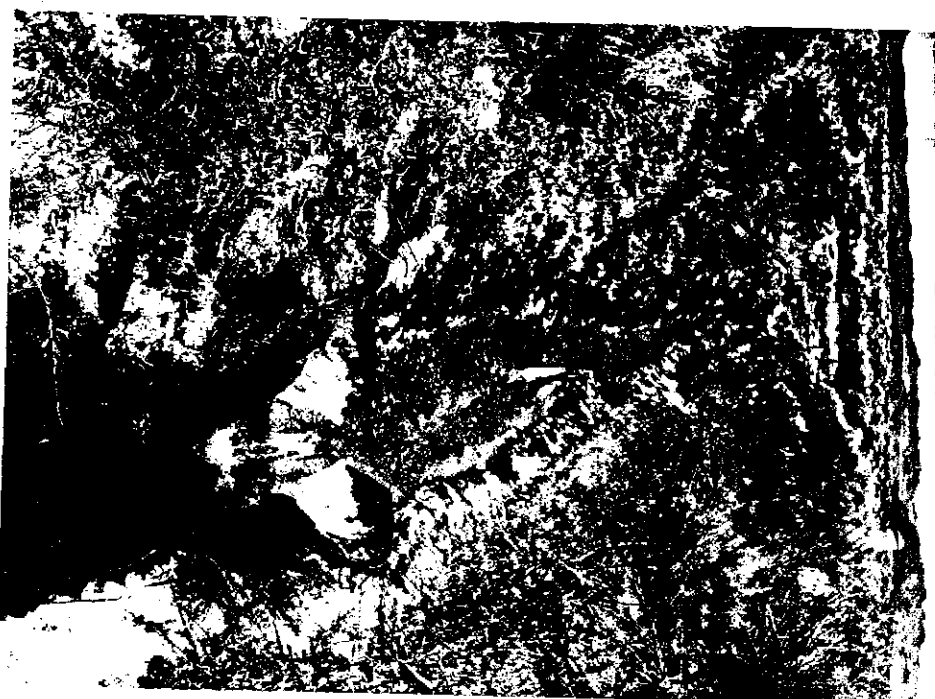
FALEY
A43-4098A

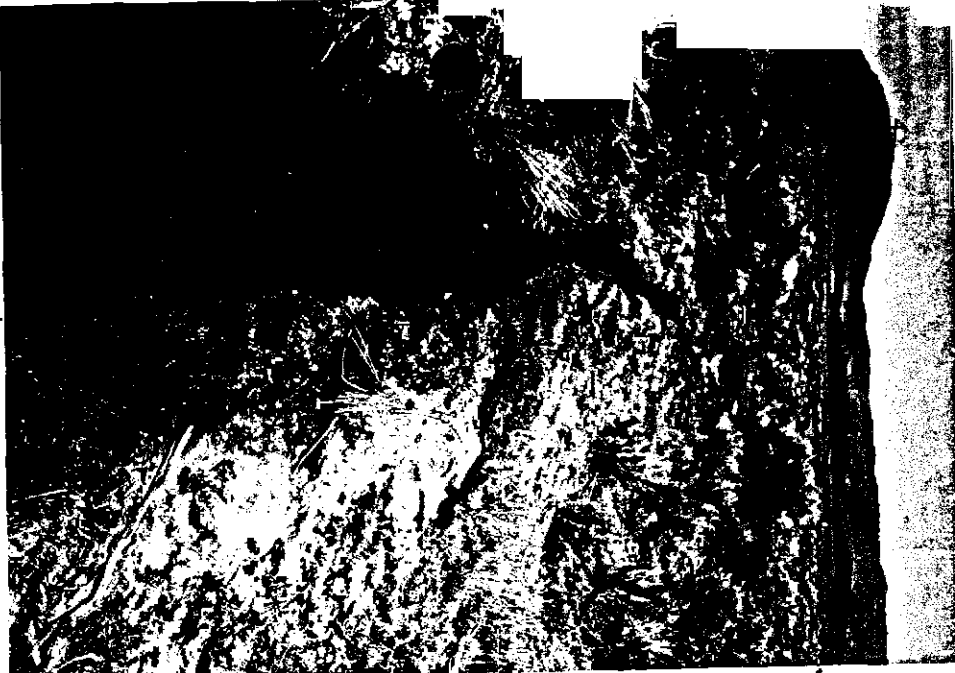
APR 18 1960

HOT WATER WELL
AT BRIDGE SPAINS



SUNNY NW
SEC. 23
T15S. R26E.





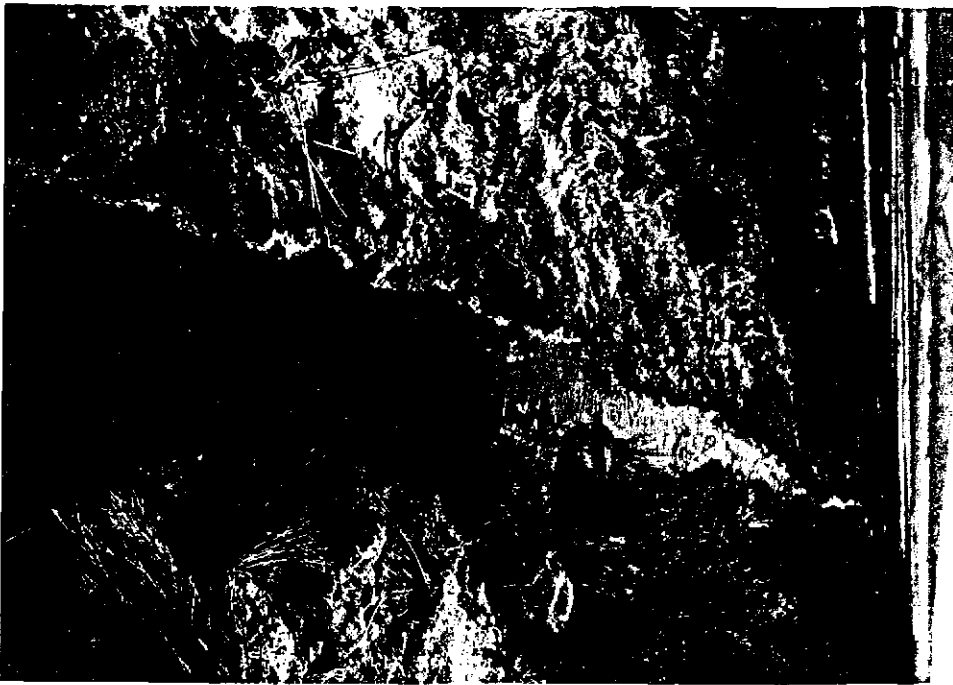
N-WEST VIEW
UPSTREAM OF
DITCH

FARLEY'S DOMESTIC WIDE
BEGINS HERE.



WELL SITE
IN BACKGROUND.

HOUSE & POND
IN BACKGROUND.



SE VIEW
DOWNSTREAM OF DITCH

FARLEY

A43-4098A

APR 13 1983



TYPICAL DITCH
VIEW WITH PIPE
IN DITCH BOTTOM.

PHOTOS BY SEC 4-27-92

FARLEY
A43-4098A



View West

Pipeline to House
& Ditch To pond.



View SE

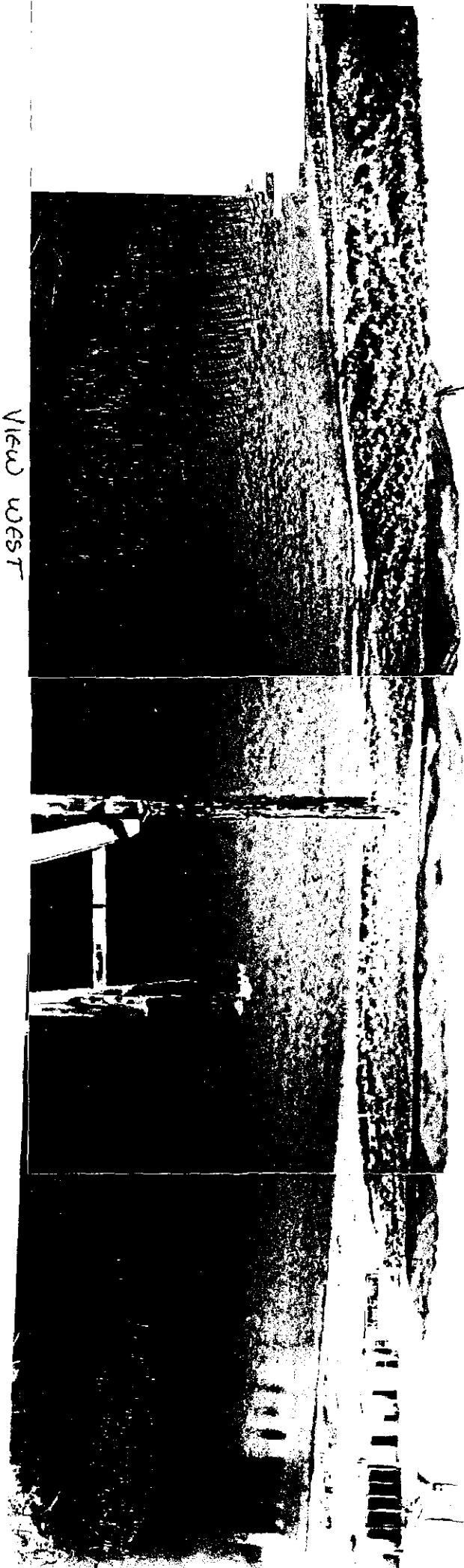
DARRINGTON'S NEW
DIVERSION FROM THE DITCH.
DEVELOPED IN APRIL 1992.

PHOTOS BY SCL 4-27-92

APR 18 1993

PITCH TO

THINLEY
A43-4098A



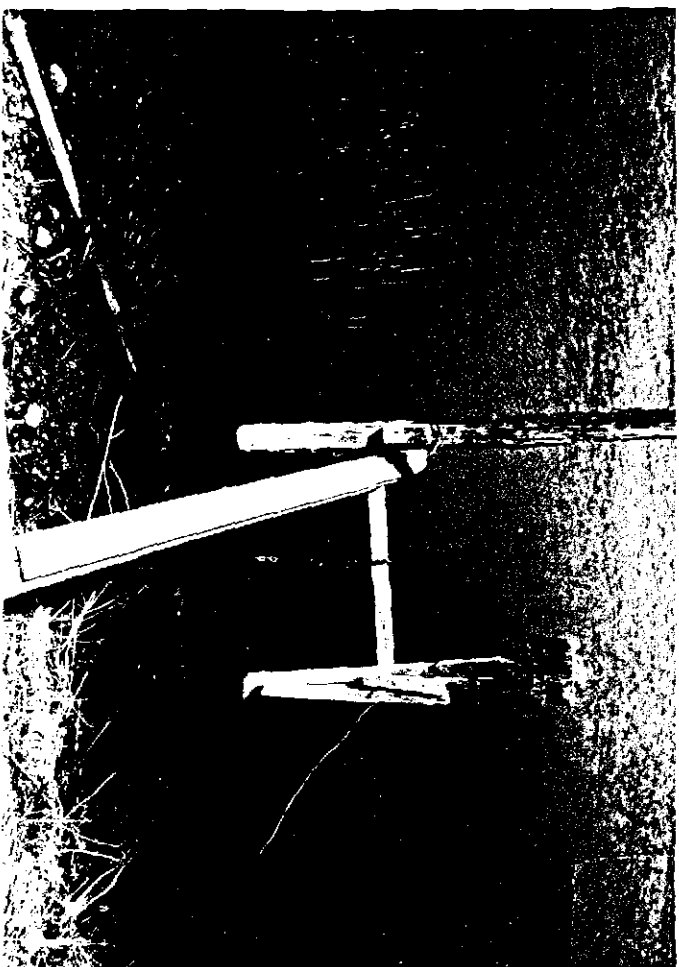
View West

POND SITE
AS VIEWED FROM DAM.

T15S. R26E.

Sec. 23

SW NE



OLD CULVERT USED TO
DRAIN POND + DELIVER
COOLED WATER TO
IRRIGATION DITCH BELOW
THE DAM.

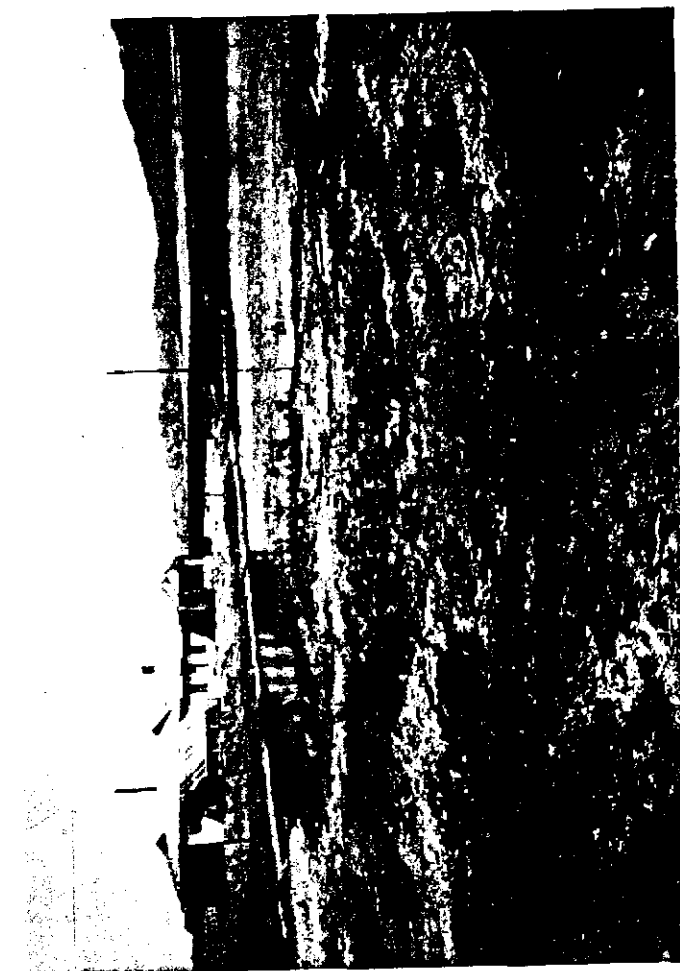
— NO LONGER IN USE.

APR 13 1993

PHOTOS BY SC
4-27-92

FARLEY
A43-4098A

RETURN FLOOD SITE
AFTER WATER HAS
GONE IS THE
MEASUREMENT OF 0.02025



HOUSE IS ON
NORTH SIDE
OF POND.

↑
DITCH
INFLOW
TO POND



→
SOUTH-WEST EDGE
OF POND

NOTE: LOWERED
WATER LINE
DUE TO ADDITIONAL
DIVERSIONS AWAY FROM
THE POND.

APR 18 1993



V-notch weir

Needs improvements
to be accurate.

Photos by: SCC
4-27-92

FARLEY

A43-4098A

APR 29 1992



Discussion to Hog scalding
Pond. Hasn't been used recently.

↑
DITCH
Flow



POSSIBLE OLD DITCH
SITE BUT WATER WOULD
STILL END UP IN THE POND.

NO DITCHES FOUND TO BYPASS POND
FOR IRRIGATION USES.



DARLINGTON'S NEW DIVERSION
CROSSES EXISTING ROAD BED.
NO EVIDENCE OF PREVIOUS DITCHES
ON THIS SITE FOR SAME PURPOSE.

FARLEY 443-4098A

↓
DITCH
FLOW
TO POND

APR 18 1992

PHOTOS BY SCC

4-27-92

FARLEY A43-4098A

APR 13 1992



Flow

This Diversion
was Developed
in April 1992.
Pipeline Does
Not Replace
Any Previous
Ditch Site.



Pipeline crosses
existing Roadway.
BLM Grounds up to the
fence in the background.



Pipeline to POU.

Photos by sec 4-27-92

State of Idaho
License and Certificate of Water Right

Water License No. 19094

Amount 0.92 second foot

Water District No.

Priority February 11, 1941

THIS IS TO CERTIFY that BEN V. SCHMIDT
of Bridge, Idaho, made application for a permit to appropriate the
public waters of the State of Idaho, dated February 11, 1941; that Permit No. 19094
was issued under said application; that Certificate of Completion of works, with a carrying capacity of
3 second feet, was issued thereunder on March 7, 1942, showing that said works
were completed on the 13th day of February, 1942; and that on the 17th
day of February, 1943,

BEN V. SCHMIDT

of Bridge, State of Idaho, made proof to the satisfaction of the
Commissioner of Reclamation of Idaho, of the right to use the waters of a hot well
(subterranean), a tributary of, for the purpose of irrigation and domestic
use, under Use Permit No. 19094 of the Commissioner of Reclamation
and that said right to the use of said waters has been perfected in accordance with the laws of Idaho, and is
hereby confirmed by the State Reclamation Engineer
of Licenses, at page 4199, on the 22nd day of February, 1944;

The right hereby confirmed dates from February 11, 1941;

The Point of Diversion is located
in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 23, Tp. 15 S., R. 26 E., B. M. Cassia County

That the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid,
is limited to an amount actually needed and beneficially used for said purposes, and shall not exceed 0.92
cubic feet per second.

Description and location of use:

Twp.	Range	Sec.	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
15 S.	26 E.	23	SW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$	40 40	6 40
Total Number of Acres Actually Irrigated -					46

APR 13 1944

The right to the use of the water aforesaid hereby confirmed is restricted to the lands or place of use
herein described, as provided by the laws of Idaho.

WITNESS the seal and signature of the State Reclamation Engineer
Commissioner of Reclamation, affixed at Boise, Idaho,
this 22nd day of February, 1944

JAMES SPOFFORD

Commissioner of Reclamation
State Reclamation Engineer

(SEAL)

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
CLAIM TO A WATER RIGHT

Under the provisions of Section 42-243, Idaho Code, any person using or claiming rights to the public waters of Idaho established by diversion and application to a beneficial use must file a claim with the Department of Water Resources on or before June 30, 1983. Exempted from this filing are single family domestic uses as defined in Section 42-230(d), Idaho Code. Also exempted are rights represented by a permit, license, decree, adjudicated right, or a previously filed claim.

The filing of this claim does not confirm the water right claimed but failure to file may result in forfeiture of a water right.

Notice is hereby given that Harriett P. Crank &/or Janice Crank
(Name of Claimant)

Blue Pond, Malta, Idaho 83342 Telephone No. 645-2589
(Mailing Address) (Zip Code)

claims a right to the diversion and beneficial use of the surface or ground water. The extent and nature of said claim is as follows:

(1) Date of priority: (When was the water first applied to a beneficial use) 1935

A claim is not acceptable on a ground water source with a priority later than March 25, 1963 or on a surface water source with a priority later than May 20, 1971. An exception is that a claim may be filed on single family domestic use from a ground water source.

(2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water)
groundwater tributary to _____

(3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

(cfs, gpd, AFA)		(Domestic, Irrigation, Stock, Etc.)		(Both dates inclusive)	
				(Mo., Day)	(Mo., Day)
Quantity	<u>0.20 cfs</u>	Use	<u>irrigation</u>	Period of Use From	<u>Apr 1</u> To <u>Nov 1</u>
Quantity	<u>0.02 cfs</u>	Use	<u>domestic</u>	Period of Use From	<u>Jan 1</u> To <u>Dec 31</u>
Quantity	<u>0.02 cfs</u>	Use	<u>livestock</u>	Period of Use From	<u>Jan 1</u> To <u>Dec 31</u>
Quantity	_____	Use	_____	Period of Use From	_____ To _____
Quantity	_____	Use	_____	Period of Use From	_____ To _____

(4) 0.20 cfs TOTAL QUANTITY USED.
(cfs, gpd, AFA)

(5) A) Point of diversion: (Location of point where water is diverted from its source)
NW ¼ NW ¼, Sec. 23 Twp. 15S Rge. 26E B.M., County of Cassia
Additional points of diversion: _____

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.). Give sizes and capacities: be as specific as possible. Describe any changes in the system and give the date of the change. 430' X 12" artesian hot-water well (over 200° F), dirt ditch 1/4 mile to small pond. Diversion from pond to garden & domestic use. Ditch from pond to large irrigation use.

(6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

T	R	SEC.	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
15S	26E	23	40	40	1 X	40													121

No. of acres 121

B) If water is used for other than irrigation, fully describe that use, being as specific as possible:
domestic use is for bathing; water was previously used for culinary purposes, but this use was abandoned last year when a cold-water well was drilled.

100-200 range cattle

NOTE: Include here the type and number of stock watered: small number of house animals (geese, dogs, etc)

(7) If you are claiming water as a member of an organization, list name of organization: _____

APR 13 1983

-
- heat right
- R. 26E
- T. 15S
- P.D.
- HOUSE
- 40
- 40
- 40
- 23

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge.

Sworn to before me this 16th day of September, 19 80.

Notary Public
Residing at Twin Falls, Id

My commission expires Life

Received by J. E. Stanton Date 9-16-80 Exception filed by: _____ Forwarded to _____ Date _____
Prelim. check by rc Date 9-19-80 Forwarded to claimant by: _____
\$20.00 fee received by maria Date 9-16-80 # 46599 16633
Published in South Lake Press
Dates 10/7 & 10/14/80

ADP 13

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

Permit No. 19094

Proof of Application of Water to Beneficial Use

Deposition of Holder

Ques. 1. State your name, residence, occupation and postoffice address.

Ans. Ben V. Schmidt, Bridge, Idaho, farmer, P.O. Bridge, Idaho

Ques. 2. If acting in behalf of corporation, state its name, principal place of business (if a foreign corporation, give name of postoffice of statutory agent), your position with reference to same, and your authority for appearing in its behalf.

Ans. no

Ques. 3. State number and date of permit, and date of priority you propose to establish under the permit.

Ans. 19094- Feb-11-1941 ¹⁷ date of priority, Feb-11-1941

Ques. 4. State source of water supply and give exact location of point of diversion.

Ans. a Hot well- in the SE $\frac{1}{4}$ Sec. 23, Twp. 15 S., Range 24 E.M.
well is located 40 rods north of the SW corner of the SE $\frac{1}{4}$ Sec. 23, Tp. 15 S.
Range 24 E.M.

Ques. 5. Describe your works of diversion, and state amount of water they are capable of conveying from point of diversion to place of use, and give name of canal or ditch or other works by which water is conducted to such place of use.

Ans. Drilled well and ditch, and cooling reservoir.

3 cub. feet per second. open ditch.

Ques. 6. State for what purpose water is used and describe place of use. (If for irrigation, name each subdivision in which used, and number of acres in each subdivision that have actually been irrigated with said water.) State whether cultivated or natural meadow land and the nature of all improvements which have been made as a direct result of said use.

Ans. irrigation and domestic use.

SE $\frac{1}{4}$ Sec. 23, Twp. 15 S., Range 24 E.M.

South $\frac{1}{2}$ Sec. 24, Twp. 15 S., Range 24 E.M.

160 acres.

Ques. 7. If for other than for irrigation purposes, state how applied, amount of horse power generated, etc.

Ans. no

APR 13 1993

19094

Ques. 8. What is the minimum amount of water required for the purpose specified above?
Ans. 8 cubic feet.

Ques. 9. If you are not the person or representative of the corporation to whom above mentioned permit was originally issued, please state how ownership was acquired by present holder.
Ans.

Ques. 10. State when, how, in what amount and to what extent the water diverted under above mentioned permit has been used.

Ans. This well was drilled in 1928 by my father John Schmidt. He is now deceased. In 1941 I wrote to you and learned that he had not completed filling, and therefore I have undertaken to do so. However the water has been used on the farm since that time. I use the water overnight in a reservoir. I use a 8 cubic foot stream for irrigation.

Ques. 11. State when, how, in what amount and to what extent waters other than those diverted under the above mentioned permit have been diverted and applied to beneficial use upon the lands herein described. Give full particulars regarding such other appropriations and rights claimed thereunder.

Ans. None

(Sign)

I hereby certify that the foregoing testimony was read to the above subscribed before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me, at my office in Malta County of Cassia State of Idaho, on this 17 day of February, A. D. 1943.

Henry Thompson
Notary Public Residing at Malta, Ida.

My commission expires Jan-25-1945.

APR 18 1943

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE

REPORT OF ENGINEER

PERMIT NO. 19094

REPORT ON PROOF OF Beneficial Use

46 acres in 2-40's
P.M.T. → 92 c.f.s.
14.00 fee
APR 13 1993

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

REPORT OF ENGINEER

Permit No. 19094

This proof is for Beneficial Use

In Water District No.

1. Name of applicant Ben V. Schmidt, Bridge, Idaho

2. Source of water supply: Well

3. Location of point of diversion: Is in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 23

T. 15 S. R. 26 E. County of Cassia

4. Describe works as they exist, giving dimensions and capacities of same: A drilled Artesian Well 414 feet deep, cased 80 feet with 8" steel casing; thence via natural draw to a small cooling reservoir of about $\frac{1}{2}$ acre in area, behind a 9ft. earth dam which is 200ft in length.

5. Water is used for: Irrigation and domestic use

6. State whether or not water has been turned into works of diversion: Yes

7. List legal subdivisions of lands to be irrigated. If proof is for beneficial use, give exact number of acres under cultivation in each forty-acre tract. (Describe manner and place of use if for other than irrigation):

SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 23, Twp. 15 South, Range 26 East, B. M.

(Submit map on attached plat, showing location and details of above description.)

8. What large stream would the water here appropriated finally reach? None

Remarks: This water has a temperature of 213 $\frac{1}{2}$ degrees

APR 18 1943

This examination was made on the 26th day of May, 1943.

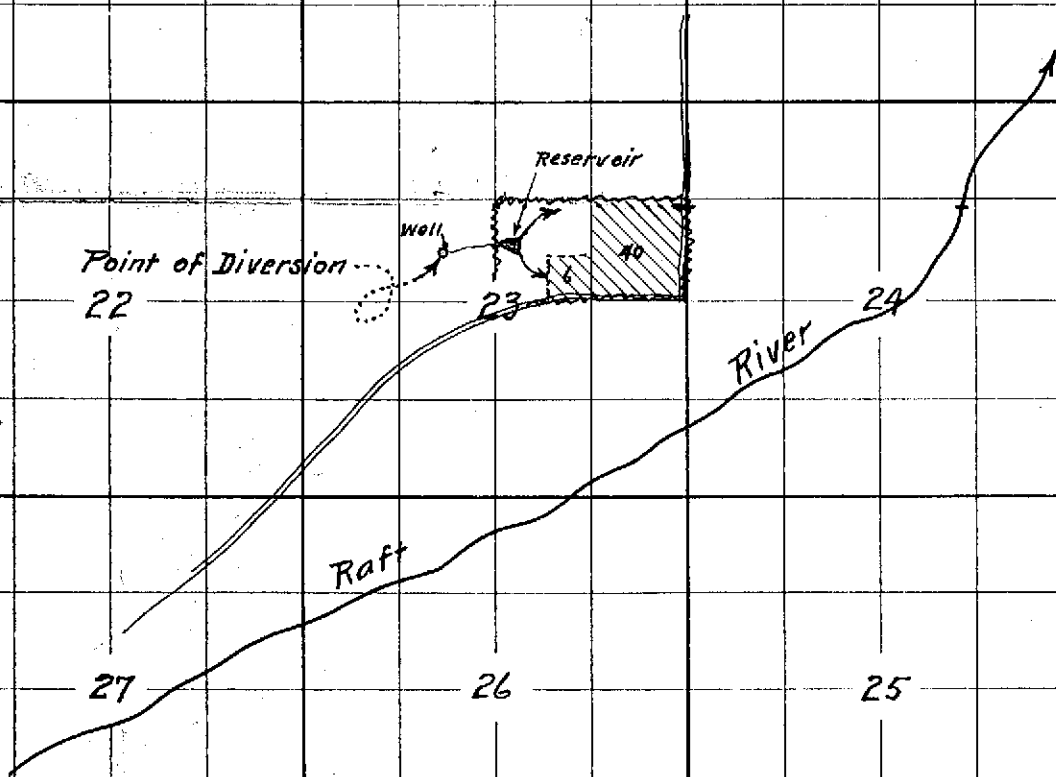
(Signed)

Fred L. Tolman

Examiner.

WOTTA

WOTTA



APR 18 1993

Ben V. Schmidt
Bridge, Idaho
Permit No. 19094

Examination for Beneficial Use

Cassia
County

INSTRUCTIONS TO EXAMINERS

1. Always carefully note the location of the point of diversion and accurately plat same.
2. When proof is for beneficial use, carefully check up the number of acres actually irrigated in each forty and accurately plat same.
3. Make a map showing the correct location of streams and ditches, and the irrigated lands, and any adjacent permanent landmarks, such as towns, lakes, large streams and public roads.
4. If any unusual conditions are discovered, make a plain statement of them under remarks.
5. Always see the holder, if possible, and go over the whole ground with him and make your report only upon actual existing facts and conditions.

APR 13 1903